



Friday, 6 July 2012

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 16 July 2012

commencing at **2.00 pm**

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

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Brooksbank

Councillor Hill

Councillor Kingscote

Councillor Pentney

Working for a healthy, prosperous and happy Bay

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

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01803 207087

Email: governance.support@torbay.gov.uk



DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 18 June 2012.

(Pages 1 - 7)

3. **Declarations of Interests**

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

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

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

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Democratic Services or Legal Services prior to the meeting.)

4. **Urgent Items**

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

5. **P/2008/0114/MPA - Hollicombe Gas Works, Torbay Road, Torquay**

Re-Advertisement: Construction of 185 residential apartments with associated vehicular and pedestrian access, parking, infrastructure and landscaping works. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT (as received 04/05/12). THIS IS A DEPARTURE FROM THE SAVED TORBAY LOCAL

(Pages 8 - 49)

PLAN.

6. **P/2012/0578/CA - Princess Promenade, Torquay** (Pages 50 - 51)
Removal of upper and lower deck of Banjo and link steps.
7. **P/2012/0579/R3 - Princess Promenade, Torquay** (Pages 52 - 54)
Replacement of lower deck and the Banjo, in filling of void areas between deck and Banjo wall; extension of steps.
8. **P/2012/0416/PA - Collingwood, 38 Braddons Hill Road East, Torquay** (Pages 55 - 58)
Balcony and additional apartment at roof level.
9. **P/2012/0414/LB - Collingwood, 38 Braddons Hill Road East, Torquay** (Pages 59 - 61)
To form balcony and additional apartment at roof level.
10. **P/2012/0327/PA - Lewton Lodge, Adelphi Lane, Paignton** (Pages 62 - 66)
Change of use from 2 Holiday apartments to 2 Residential apartments.
11. **P/2012/0396/VC - Units 1,4,5,6,7,8,9 And 12, Sunhill Apartments, 19 Alta Vista Road, Paignton** (Pages 67 - 72)
Variation of Conditions to Change Use To Full Residential Use.
12. **P/2012/0516/MPA - 1 Southfield Road, Paignton** (Pages 73 - 80)
Extend time limit - Formation of 12 - 2 bedroom flats with pedestrian/vehicular access (revised scheme) application P/2009/0281/MPA.
13. **P/2012/0619/HA - 110 Hookhills Road, Paignton** (Pages 81 - 84)
Remove porch, alterations to form enlarged tiled roof to cover porch and front of house; build pool/games room at rear in garden.
14. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
15. **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 Wednesday 11 July 2012. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Development Management Committee

18 June 2012

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Baldrey, Barnby, Brooksbank, Hill, Kingscote and Pentney

(Also in attendance: Councillors Amil, Davies, Hernandez, Lewis and Thomas (D))

12. Minutes

The Minutes of the meeting of the Development Management Committee held on 21 May 2012 were confirmed as a correct record and signed by the Chairman.

13. Urgent Items

The Committee considered a verbal update raised by the Executive Head of Spatial Planning regarding application P/2010/1383, 1 Warbro Road and application P/2011/0197, Whiterock. The Committee agreed to extend the time limit for six months from the date of this meeting, for the completion of the Section 106 agreement in respect of each application.

14. P/2012/0280/MPA - Edginswell Business Park, Orchard Way, Torquay

The Committee considered an application for full planning permission for a Tesco store (4451 sq mts / 47,910 sq ft) total sales area), of which 2795 sq mts convenience goods space and 1160 sq mts comparison goods space, including a customer café; 977 sq mts (10,516 sq ft) office development (2 no. buildings); associated infrastructure (including new roundabout on Orchard Way and widening of Newton Road between Orchard Way and Riviera Way); new access; 442 parking spaces (of which 371 for Tesco); and landscaping. Outline application for development of a B1 office building (2090 sq mts) with associated parking and access (all matters reserved except layout and means of access) (Departure from Local Plan) Extinguishment of a public right of way Re advertisement.

Prior to the meeting, written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Barry Dunnage, David Watts and Susie Colley addressed the Committee against the application. Mark Scoot, Simon Petar and Richard May spoke in support of the application. In accordance with Standing Order B4.1 Councillor Lewis addressed the Committee.

Resolved:

Refused on the following grounds:

- (i) The proposed 7149m² food retail store would be located on land designated for employment use in the Torbay Local Plan 1995-2011 and consequently would result in the loss of a 2.45 ha of serviced land that is available and highly suitable for employment use. Retention of the site for employment use accords with paragraph 21 in the NPPF, which seeks to promote investment in business. Accessibility to and prominence of, in commercial terms, the site will be significantly improved with delivery of the South Devon Link Road and this will increase the likelihood of an employment use being delivered on the site, given its prominent location at the entrance gateway to Torquay. The Authority is not convinced that a store of the proposed size is required to pump prime the remaining employment area. Loss of the site for employment purposes would result in the loss of opportunity to secure economic growth through the creation of jobs and prosperity in a struggling economically deprived area, characterised by seasonal low paid employment and as such would be contrary to Policies E1.2(B) and E6 in the Torbay Local Plan 1995-2011.
- (ii). The submitted Sequential Site Assessment Report has failed to demonstrate that the applicant has complied with the requirements of paragraphs 24 and 27 of the National Planning Policy Framework and Policies SS and S6 of the Torbay Local Plan 1995-2011 in respect of the sequential approach. The applicant has failed to demonstrate that the town centre options have been thoroughly assessed as sequentially preferable alternatives to the application site. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration. Council believes there are opportunity with Torquay and Paignton town centres which can meet the same needs of retail elements of the proposed development. In the event that the sequential test is achieved in this case, the Council has a retail strategy based on gap area analysis that determines that the application site would not be spatially preferable in any event.
- (iii) The Retail Assessment fails to accurately assess the impact of the proposed retail store on the Torquay town centre and Paignton town centre, district centres and local centres. The proposed development by virtue of the inclusion of the retail store would have an adverse impact on investment in, and the vitality and viability of, Torquay Town Centre which would consequently have a detrimental effect on trade/turnover in the town centre, contrary to paragraphs 26, 27 of the NPPF and Policies SS and S6 of the Torbay Local Plan 1995-2011. The applicant has failed to prove that material considerations exist that warrant approval of the application proposals contrary to these policies. Furthermore, the development would have a detrimental impact on other existing Town, local and district centres and the Council does not consider that the evidence submitted in relation to

the retail impact assessment is robust. The potential cumulative impact that the store would have in combination with the district centre at the Willows would be compounded by placing another large store in this location.

- (iv) The external appearance of the food retail store fails to meet the objectives of Policies BES and BE1 in the Torbay Local Plan 1995-2011 and paragraphs 60 and 64 of the NPPF that seek to ensure new development will positively enhance the built environment, ensuring that the integrity of local character and distinctiveness is protected. The proposed building lacks reference to the established built form and character of its setting in Torquay in terms of design, materials and quality of landscape provision and as such would fail to provide a high standard of development that would be fully integrated into the natural, built and historic environment in this very prominent gateway site that has a significant role as the arrival point to a major tourist destination. The bulk and scale of the building proposed would be prominent in this gateway location and run contrary to the prevailing urban fringe approach that has been taken to the existing development at the business park. The visual impact would overpower this environment as one full scale unit is proposed rather than smaller units sited in a landscaped setting.
- (v) The applicant has failed to demonstrate that the traffic generated by the proposed development could be satisfactorily accommodated on the highway network by reason of inadequate assessment of likely traffic generation. As such the traffic arising from the proposed development would have a significant adverse impact on highway safety, capacity and free flow of traffic on the surrounding highway network. In addition the applicant has also failed to demonstrate that the proposed mitigation measures would adequately offset the potential increase in demand. The proposal is therefore contrary to Policy T26 in the Torbay Local Plan 1995-2011.
- (vi) The applicant has failed to satisfy the sustainability aims of Policy CF6 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" to secure the delivery of physical, social and community infrastructure necessary to make the development acceptable in planner terms and directly related to the proposal, by failing to secure planning obligations under Section 106 of the Town and Country Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy CF6 of the Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.
- (vii) The proposal would have a noise impact and a negative effect on the amenities of the neighbouring properties.

The Committee resolved that issues of detail in the wording of the formal reasons for refusal in the decision notice be delegated to the Executive Head of Spatial Planning. These include, but are not limited to, the addition of cumulative impact

in reason 3, visual impact in reason 4 and the additional noise impact at reason 7.

15. P/2011/0991/PA - 27 - 29 Walnut Road, Torquay

The Committee considered an application for a change of use to create a single unit to provide sheltered housing accommodation with warden services for vulnerable adults (Re advertisement).

Prior to the meeting written representations were circulated to the Committee. At the meeting Justin Rodway addressed the Committee in support of the application In accordance with Standing Order B4.1 Councillor Amil addressed the Committee.

Resolved:

Approved subject to:

- (i) the conditions and informative as set out in the submitted report, and
- (ii) the completion of a revised Section 106 Legal Agreement

16. P/2012/0272/OA - 15 Newton Road, Torquay

This application was withdrawn by the applicant.

17. P/2012/0344/PA - 91 Avenue Road, Torquay

The Committee considered an application for a proposed change of use from an existing Guest House to Residential Accommodation.

Prior to the meeting a written representation was circulated to the Committee.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement in respect of waste management, lifelong learning and greenspace and recreation within three months of the date of this Committee or the application be re-considered by members; and
- (ii) the informative set out in the submitted report
- (iii) the removal of permitted development from C3 to C4

18. P/2012/0455/PA - 25 Ilsham Road, Torquay

The Committee considered an application for a change of use from Co-op store to luxury high end beauty salon/spa offering a range of treatments to include manicure, pedicure, chiropody, facials, therapeutic massage, waxing etc.

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

Resolved:

Approved.

19. P/2012/0500/R3 - Land To The North East Of A3022, Brixham Road And West Of Elberry Lane, Churston

The Committee considered an application in respect of a change of use to temporary park & ride facility for 230 vehicles, with temporary buildings to run until 31st October 2014.

Resolved:

Approved with delegated authority being given to the Executive Head of Spatial Planning to deal with any representations that might be received after the date of this Committee.

20. P/2012/0233/R3 - 145 - 149, Winner Street, Paignton

The Committee considered an application in respect of the construction of 3 new 2 storey flats with 2 bedrooms and 3 new self contained commercial units.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mr Peach and Tina Neal addressed the Committee against the application and Adrian Gillette addressed the Committee in support. In accordance with Standing Order B4.1 Councillor Davies addressed the Committee.

Resolved:

Refused on the following grounds:

- (i) The proposed development would have an unacceptable impact on the quality of existing residential environments at No. 151 Winner Street through the loss of light and outlook that would result from the proposed

development. Specifically, in relation to the side windows at No. 151 a number of which are windows to principle rooms. Also the proposal that the bin storage would be sited in the alleyway adjacent to No 151 Winner Street.

- (ii) Lack of planning contributions secured to offset the impact of development upon local physical and social infrastructure,

and potentially; subject to the further views of the Conservation and Design Team
- (iii) Detrimental impact upon the character and appearance of the Old Paignton Conservation Area and nearby listed buildings.

The Committee resolved that issues of detail in the wording of the formal reasons for refusal in the decision notice be delegated to the Executive Head of Spatial Planning.

21. P/2012/0327/PA - Lewton Lodge, Adelphi Lane, Paignton

The Committee considered an application for the change of use from 2 Holiday apartments to 2 Residential apartments.

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

Resolved:

Consideration deferred for further negotiations with the applicant in respect of the potential for the change of use to be an enabling form of development to bring forward improvements to the main hotel on Esplanade Road.

22. P/2012/0392/MPA - Land at Junction of Long Road and Waddeton Road, Paignton

The Committee considered an application in respect of the erection of education facility to provide a centre of excellence for carbon reduction, renewable energy and sustainable construction, including a demonstration residential building, parking, landscaping and access (Use Class D1). Closure of vehicular access.

Prior to the meeting Members of the Development Management Committee undertook a site visit. At the meeting Laurence Frewin addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement in respect of sustainable transport
- (ii) conditions set out in the submitted report and other matters of detail be delegated to the Executive Head of Spatial Planning.

23. P/2012/0461/PA - Barton Pines Holiday Park, Blagdon Road/West Lane, Paignton

The Committee considered an application for a variation of Section 106 Agreement on applications P/2008/1217 and P/2009/0479/PA.

Resolved:

The Section 106 Agreement be varied as requested by the applicant.

Chairwoman

Agenda Item 5

Application Number

P/2008/0114

Site Address

Hollicombe Gas Works
Torbay Road
Torquay
Devon
TQ2 6TF

Case Officer

Mr Scott Jones

Ward

Preston

Description

Re-Advertisement: Construction of 185 residential apartments with associated vehicular and pedestrian access, parking, infrastructure and landscaping works. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT (as received 04/05/12). THIS IS A DEPARTURE FROM THE SAVED TORBAY LOCAL PLAN.

Executive Summary / Key Outcomes

The proposal remains the redevelopment of the former gas works site, to provide 185 residential apartments supported by new access points, associated parking facilities and public greenspace.

Background

At the February 2011 Committee, the scheme was resolved to be approved subject to the following:

- i) comments received from the Government Office for the South West;
- ii) the completion of a Section 106 Legal Agreement, including provision for an independent observer on site at the cost of the applicant and other terms acceptable to the Executive Head of Spatial Planning; and
- iii) the inclusion of an additional condition that tenting will be used as an appropriate remediation strategy', unless otherwise agreed by the Council's Environmental Health Officer on safety grounds

The resolution to grant was, amongst other things, subject to the outcome of the Secretary of State's consideration of the need for an Environmental Impact Assessment. In the event, the SoS determined the need for an EIA in this case.

The scheme returns to committee afresh accompanied by the required

Environmental Statement (ES), the scope of which accords with the scoping direction provided by the Secretary of State. The ES seeks to determine any likely significant effect, covering the matters of hydrology and drainage, ground contamination, dust and air quality, groundwater and hydrogeology and ecology and natural habitats. The summary findings of the Environmental Statement concludes that there would be either beneficial or negligible affect, and that where there is the potential for a greater degree of affect the mitigation measures that are outlined would bring down the significance of likely environmental affect to negligible.

Contamination

The issue of contamination is clearly very important to the local community groups who have been engaged in the planning process. The comments from the community that have been expressed throughout the 4 years since the submission of the application have resulted in a more robust understanding of the contamination present on the site and an in-depth interrogation of the proposed remediation process.

The significant volume of documents together with the recently submitted Environmental Statement, provide detail as to the proposed remediation arrangements. Having fully considered the proposed remediation measures, it has been determined that they are appropriate in this case for the remediation of the site. This judgment stems from a full interrogation of the submitted assessments and methodologies to be employed in the remediation process. The view of the professionals involved in this assessment is that the proposed process would be appropriate in the context of the associated risks. The Authority's Community Safety Team have advised that the remediation strategy has a comprehensive dust control regime and a robust monitoring programme and they support the principal of the application being approved subject to suitable conditions.

Furthermore, the independent peer review undertaken in respect of the land contamination and the remediation process concluded that; 'the remediation strategy is appropriate to mitigate potential risks presented to identified human health receptors, including local residents and members of the school, from contamination currently present at the site during the remediation process, and that generally the observations identified within the original review had been thoroughly and appropriately addressed.'

The independent peer review endorsed the proposals and considered that the scheme could be approved with detailed matters to be controlled under planning conditions.

Notwithstanding the view that the proposed remediation process is acceptable, in order to ensure that the safety of nearby residents and pupils at the nearby school is protected, Environmental Health has suggested the use of negative

pressure tenting where appropriate. As such a condition in that respect is provided at the end of this report.

Members will note the decision to approve at the February 2011 committee was subject to an independent observer paid for at the applicant's expense. The view of officers is that this is not required for the safe monitoring of the remediation process, due to the agreed arrangements with respect to monitoring and the fact that the process is controlled by other legislation.

In conclusion, the consensus of the professional bodies and persons that have passed comment and the view of officers is that this site can be suitably remediated in accordance with the proposed processes subject to the imposition of the recommended conditions. The process will result in the cleaning up of a contaminated site and the removal of the risks associated with leaving the site in its current state. The scheme will provide 185 much needed new dwellings (including 44 affordable dwellings) on a previously developed site along with a public park and improved linkage through the valley for the general public.

Principle

In terms of the resulting residential scheme that is proposed, although the scheme is formally a departure from the local plan (due to the number of dwellings proposed), the fundamental use is consistent with local plan policy, as the site is an allocated housing site. The number of dwellings proposed may be considerably higher than the 50 units allocated to the site, however, the quantum of development is considered acceptable when considering the scheme's wider planning merit and also the quantum of development that is necessary in order to bring forward viable development that pays for the clean-up of a long-standing contaminated site and provides improved recreation routes and public amenity space.

Furthermore, the Council needs to make best use of previously developed sites such as this in accordance with development plan policy and the National Planning Policy Framework, as both seek to make efficient use of land for housing by building on previously developed land ahead of Greenfield sites.

Design

In regard to the basic form and the detailed design of the scheme it will offer a mix of one, two and three-bed apartments that are arranged in four linear apartment blocks. The blocks are of a scale that is reflective of the site's industrial past, but form and layout also enable the blocks to nestle comfortably within the side of the valley. The form is modern with a palette of materials that takes reference from both its coastal and rural valley context. The design has evolved via negotiation and has been through the Torbay Design Review Panel. The approach has been considered positively as a good solution to the site constraints.

Highways

The scheme will be served by two vehicular access points at each end of this linear site. The solution has evolved through discussion and negotiation to what is considered a satisfactory answer to the questions posed by the context. The arrangement around the Torbay Road entrance features a plaza 'feel' but maintains an engineered highway and formalised (but uncontrolled) crossing points for pedestrians. It will maintain a designated carriageway for the existing main road past the entrance to the site whilst offering a designated right hand turn, together with gateway features, traffic calming and suitable pedestrian crossing areas with central refuge points.

The secondary access off Old Paignton Road will provide a traditional T-junction set within a raised table to help reduce local speeds, together with gateway enhancement works further along Old Paignton Road that also help reduce local speeds. The scheme also includes improvements around the school entrance to provide designated parking bays. The site layout provides for three of the residential blocks to be served off Torbay Road, with block D at the top of the site served off of Old Paignton Road.

Floodrisk

The site is, in part, under flood risk designation and hence the local authority should be satisfied that there are no reasonably available sites appropriate for the proposed development in lower areas of flood risk. Whilst the site is, in flood risk terms, less preferable to sites within flood risk zone 1 and 2, the site is nonetheless sequentially preferable in terms of the desire to develop brownfield land. The alternatives to the development of this site for large-scale housing sites are likely to be in more peripheral Greenfield locations and in the case of sites to the west of Paignton for example, they also have flood risk considerations of their own. As such the development is sequentially preferable to other potential housing sites of this size in Torbay.

In any event, given the need for housing, the wider sustainability benefits such as the remediation and the provision of a public park and improved access routes, it is considered that the proposal would satisfy the exceptions test, as advised in Paragraph 102 of the NPPF. The site specific flood risk assessment has demonstrated to the EA and LPA satisfaction, how the development would be safe for its lifetime.

NPPF

In regard to updated policy guidance the National Planning Policy Framework (NPPF) has recently replaced a great deal of previous national planning guidance. Core to this fresh guidance is that there should be a presumption in favour of sustainable development, which for decision taking means approving development proposals that accord with the development plan without delay. The proposal is considered highly sustainable and concurs with a number of goals for development, offering the following;

- Helps deliver a choice of high quality homes and helps boost the supply of housing
- Offers a mix of market and affordable housing and a variety of types and sizes of units
- Offers high quality design
- Promotes healthy communities through improved access to a valley recreational facility and improved walking and cycling facilities and infrastructure
- Includes the creation of a public park through the site, offering valuable local greenspace
- Makes efficient use of a brownfield site, that decreases the pressure on more sensitive greenfield sites
- Efficiently utilises a site with a flood constraint through making it safe without increasing flood risk elsewhere
- Enhances the green corridor to the coast by opening up the site and maintaining a significant green swathe through the site
- Remediates a long-standing contaminated site that sits aside a residential suburb and nearby school and prevents both the existing and new development from contributing to or being put at unacceptable risk from pollution

s106

In regard to the Council's aspirations towards planning contributions and affordable housing, the scheme has been party to an independent viability assessment following the applicant's assertion that the extraordinary costs, which include the costly remediation treatment, render the site unviable for the delivery of policy compliant planning contributions. The current negotiated 106 package includes appropriate development site acceptability matters such as works to the highway. In terms of affordable housing contributions, the proposal amounts to 24% of the total dwellings as opposed to 30%. Sustainable development contributions (education, transport, greenspace, lifelong learning and waste monies) are excluded due to the viability of the scheme.

The Independent Viability Assessment (IVA) concluded that this is a good offer for the Authority when considering the circumstances in relation to the costs and values associated with this development. Notwithstanding the omission of monetary contributions for sustainable development contributions, the scheme does deliver physical works that are considered in part as mitigation for the ordinary contributions. Specifically the provision of a public park maintained in perpetuity by the developer and the various enhanced pedestrian and cycle facilities through and adjacent to the site, are considered to part compensate for the lack of financial contributions. The s106 also provides for deferred

contributions in relation to the appropriately mitigated sustainable development contributions, in the event that the scheme is found to be more profitable than anticipated.

Recommendation

Conditional Approval; (suggested conditions are laid out at the end of this report) delegated to the Executive Head of Spatial Planning; Subject to the signing of a S106 legal agreement in terms acceptable to the Executive Head of Spatial Planning (within 3months of the committee date).

Site Details

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

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

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

With respect to planning designation, the site is locally designated as a Countryside Zone and sits adjacent to the Coastal Protection Zone to the South and a local wildlife site to the East. Part of the site, largely the central spine through towards the coast, is within a Flood Risk Zone Level 3a (high probability zone). It is of significant pertinence to also note that the site is allocated in the Saved Adopted Torbay Local Plan 1995-2011 for residential development for circa 50 dwellings.

Detailed Proposals

The principles behind development of this site are to meet the following objectives, as detailed in the Design & Access Statement:

- Decontamination of the site;
- Alter gas distribution to enable efficient use of the land;
- Reduction of on-site and down-stream flooding;
- Provision of residential accommodation to fund the objectives;
- Maintaining the distinction between Preston and Livermead;
- Balance the density and use of the brownfield site with the provision of public open space to maintain the countryside link to the sea.

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

Incorporated within the 185 units is a proposal to provide 44 affordable units (Block D), which would be a mix of rented and shared equity dwellings.

Parking is to be provided underneath the apartments with a proposal for 237 spaces and 21 additional 'on-street' spaces within the site. This is a ratio of 1.45 spaces per dwelling. Secure cycle storage is also to be provided with one space per unit. The parking beneath the buildings is a design solution to ensure that cars do not dominate the street scene or the vista from the proposed public park and are designed into the scheme.

Summary of Consultation Responses

Community Safety / Environmental Health & Protection Team: The remediation proposals have been peer reviewed by an independent consultant (WS Atkins) and reviewed by the Health Protection Agency (HPA) and Torbay Care Trust (Public Health Team).

It is advised that the remediation strategy has a comprehensive dust control regime and a robust monitoring programme. The Community Safety Business Unit has no objection in principal to the application being approved, subject to suitable conditions in order to address a number of outstanding issues and issues that cannot be addressed until the remediation process commences. The planning conditions considered necessary are outlined within the departments' memo dated 19th June 2012.

Further to the necessary conditions the department also outlines further potential planning conditions /or Informatives that the Planning Committee may wish to consider, which have emerged from wider discussions with stakeholders. These

further recommendations are;

- That an out of hours emergency contact number is identified and displayed on the emergency information board/s (informative)
- That emergency procedures for the nearby school should be discussed with the school prior to the remediation works commencing (informative)
- That the previous resolution for the potential use of negative pressure tenting, where appropriate, is again considered as a belt and braces approach to the remediation process (condition). It is advised that the scope or such tenting should be agreed by the Local Planning Authority following consultation with the HPA and the HSE (Health & Safety Executive) (condition)

Environment Agency: The EA confirms that the proposal, which is now supported by an Environmental Statement, remains unaltered from the scheme which they have previously commented on. The EA confirms that the scheme complies, in the broadest terms, with the NPPF and its Technical Guidance.

The issue of flooding from the Hollicombe Stream has been identified and measures to manage the risk have been designed into the layout. The measures, which include a flood channel, an area of open space, as identified on Drawing CO3854/001 Rev B 'Flooding Routes', replacement culverts, landscaping and floor levels of buildings, must be implemented and retained for the lifetime of the development. Conditions as laid out within memo dated 31 March 2008 should accompany any grant of permission and it is also advised that formal consent under the terms of the 1991 Land Drainage Act should be for works affecting an 'ordinary stream' from the relevant flood authority.

In regard to groundwater protection it is again noted that the submitted ES confirms that the site has significant ground contamination and therefore the environmental improvement associated with the redevelopment is welcomed. Previous recommended conditions in respect to this matter should be applied to any grant of planning permission.

For reference previous comments dating from 2010, which were informed by Planning Policy Statement 23 (Planning and Pollution Control), confirmed that the Environment Agency was satisfied that the remediation will address potential impacts upon controlled waters and asserted that the development can take place with appropriate measures to ensure the protection.

South West Water: No objection to the scheme.

Natural England: No supplementary comments, requests that previous advice is referred to.

Previous advice outlined that the authority should be conscious of standing

advice for protected species, the duty to have regard to biodiversity and the opportunities in and around the area for the enhancement of green infrastructure.

Highways & Strategic Transport: The scheme has undergone extensive discussion and design evolution and the key parameters to this development remain supported and unchanged. The previous comments outlined that there were no highway or transportation reasons to refuse the scheme, with advice focusing on the most suitable solution for the local context.

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

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

Affordable Housing Team: Previous comments still stand, which stated that the affordable housing offer for the Hollicombe Gas works development equates to 24% affordable housing (44 units) of which 50% would be for social rent and 50% would be for shared ownership. 1 of the 44 units will be suitable for a wheelchair user. When allocating the affordable homes preference will go to households over the age of 55 to encourage existing tenants to downsize out of existing larger family accommodation within Torbay.

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

Housing Services has considered all of the information provided and accept the findings of the viability report and support the current proposal subject to the applicant entering into a satisfactory S106 agreement which includes a deferred contributions clause to safeguard against the prospect of the development becoming more viable over time.

Arboriculture Team: Previous comments stand in relation to arboricultural impact.

Previously, it was stated that the proposed development would not have any

significant impact on any important trees within or immediately adjacent to the site. It was noted that the site has been redundant for many years, which has resulted in scrub and natural regeneration growth appearing in some places. This can give the appearance of dense tree cover, however, the long term condition and management requirements have been assessed and the areas shown for removal due to the development have little long term value. The impact of the development can be significantly improved and mitigated by new planting.

There are concerns regarding the level of detail on the landscape master-plan regarding specific locations and species which would be either inappropriate in its location or not able to survive due to the site's exposed coastal location. However, these matters can be appropriately dealt with by condition.

There are also some reservations regarding the adjacent woodland and its relationship with the development; the woodland is under council ownership and some of the boundary trees will require attention if the site is to be changed into residential use with technically a higher target value raising the inspection and work program of any trees. It is therefore suggested that further discussions are taken regarding any costing of works (who is going to pay if required) and any desired operation agreed prior to commencement of development. Again a planning condition can be used in this instance.

Senior Archaeology & Historic Environment Officer: The Archaeological Report shows that the archaeological potential is very low and no further archaeological works are required. It is requested that there is conservation of some of the World War II features on the south side of the road in Hollicombe Park.

Summary of Community Involvement and Public Representations

The proposal has been advertised on three separate occasions within the last 4 years, the initial submission in 2008, the submission of further information in 2010, and the latest submission being accompanied by an Environmental Statement. Each period of public consultation has raised a high number of submitted objections in the form of both individual letters and petitions. As a summary, the following points have been raised:

Summary of issues raised following the initial submission;

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

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

Objections relating to the revised scheme, re-advertised in 2010 included the following points;

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

Following the current (June 2012) period of public consultation, including the advertisement of the Environmental Statement, the following issues were raised in the representations;

- The risk assessments and modelling contain serious omissions and deficiencies
- The proposed control methods are not modelled
- There is no firm commitment to use negative pressure tenting
- No firm commitment to reduce risk to the school by commencing in the summer holidays
- Real time monitoring arrangements are not shown as necessary
- Proposed traffic calming methods should be agreed before operations

start

- Works should be overseen by independent monitoring
- Planning conditions should be agreed with the community
- Wind speed data comes from Plymouth and is not site specific, and uses averages and not maximum levels
- Control measures are specified as for 'working hours', which is not sufficient

The above summary gives a flavour of the number and range of the issues raised, however, please note that all letters have been reproduced and placed in the Members' Room. The representations have been separated into those submitted following the initial advertisement, those submitted to the further information in 2010 and those submitted following the most recent period of consultation following the ES.

Public Consultation

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

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

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

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

A further community newsletter was released by the developer in June 2012, seeking to provide further certainty over the remediation process and to provide comfort to the local community. The developer has also met with community representatives and a meeting is to be held with the Governors of the Preston Primary School.

Relevant Planning History

Application history: The application was originally considered by the Development Control Committee in April 2008, where it was resolved to approve the application subject to the resolution of three outstanding matters, these being in respect to;

- i) Decontamination
- ii) Highways and access arrangements
- iii) Section 106 (in conjunction with appropriate planning conditions)

The application was then considered at the December 2010 committee following the submission of 'further information in respect to the 3 outstanding matters'. The Committee subsequently deferred the application, specifically requesting that the applicant provide a Detailed Quantitative Risk Assessment (DQRA) for off-site receptors during the remediation process.

The application returned to committee in February 2011 with further information offered to identify that appropriate risk assessments were already contained within the remediation methodology and strategy. The application was approved with conditions subject to;

- i) Comments received from the Government Office for the South West
- ii) The completion of a s106 Legal Agreement, which shall include the provision of an independent observer on site at the cost of the applicant and on other terms acceptable to the Executive Head of Spatial Planning
- iii) The inclusion of an additional condition that tenting will be used as an appropriate remediation strategy, unless otherwise agreed by the Council's Environmental Health Officer on safety grounds

The application was subsequently considered to be EIA development by the Secretary of State, as confirmed by EIA direction letter dated 17 March 2011. As such an Environmental Statement was submitted to the Council and the application was re-advertised in May 2012.

Further history for the site;

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

P/2004/1511 Redevelopment to create 148 dwellings, new landscape

water feature, parking and new access onto Torbay Road and Old Paignton Road (in outline). Refused 30/11/2004. Appeal submitted and subsequently withdrawn.

P/2004/0772 Change of use to unspoilt parkland for use as public open space. Refused. Appeal dismissed.

Key Issues / Material Considerations

Principle and Planning Policy

Planning regulation requires that applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In addition to the development plan (which includes the Torbay Local Plan), the recent NPPF, which was published in March 2012, is a material consideration in planning decisions.

In regard to national guidance the NPPF is centred upon the principle of achieving sustainable development, with three mutually dependent strands of development being key. These are identified as the economic, social and environmental roles that should broadly seek to foster a competitive economy, support vibrant and healthy communities, and protect and enhance the natural and built environment. The heart of the NPPF also goes on to summarise that there should be a presumption in favour of sustainable development, which for decision taking means approving development proposals that accord with the development plan without delay.

It is relevant to note that the NPPF requires Local Authorities to identify and update annually a deliverable five year supply of available housing (para 47). At this time it is materially important to recognise that recent appeal decisions at both Wall Park (Brixham) and Scotts Meadow (Torquay) determined that Torbay does not currently have a five year supply of available housing land, which should be a material consideration given that the site would make a considerable contribution to the delivery of new housing. The NPPF also indicates that where there is not a five year supply of available housing land applications should be determined against the base assumption in favour of sustainable development (para 14).

In regard to the local planning policy the site is allocated for housing, sits under Countryside Zone designation and is recognised as being in a flood risk zone. It is flanked by a strategic footpath that goes around the site linking the wider valley with the coast.

In regard to the proposed residential use Housing Policy H1 in the saved local plan is relevant as it identifies allocated sites for housing, the site itself is allocated for circa 50 dwellings. The proposal accords with the principle of the housing allocation, although the proposed number and consequent density is

necessarily far higher than the Local Plan figure due both to the need to make efficient use of the site and the need to find a development of sufficient value to pay for the costs of the remediation of the land.

The site is also covered by Local plan Landscape Policy L4, Countryside Zones. The general principles in policy L4 seek to protect such areas from inappropriate development. Core to the policy is the aspiration that development should not lead to a loss of open countryside and creation of urban sprawl, or indeed where this would cause the merging of urban areas. The scheme, through the proposed linear block solution with adjacent public valley park, provides a viable solution to the development of the site whilst retaining a green valley through the scheme. This solution is also considered to accord with the aims and objectives that support the designated strategic footpath, as identified in the saved local plan. An apartment scheme is considered more commensurate with the landscape and access policy goals than a more traditional dwelling scheme, which is unlikely to offer such benefits in terms of landscape linkage, recreation and open space.

All matters of policy considered it is concluded that the development of the site for residential purposes is acceptable in planning policy terms, being both consistent with the Local Plan policies and guidance outlined within the NPPF.

Design / Appearance / Layout / Density

Prior to the submission of the application, the proposal was presented to the South West Design Review Panel. The panel then prepared a report which suggested some amendments, but was generally supportive of the scheme. The height of up to six storeys and the linear form of development was supported, but it was suggested that the architect investigated the joining up of the four blocks and having more twists, which would also allow the green corridor to be wider at its mouth facing Torbay Road. There was also concern regarding the floor plans and ceiling heights and the palette of materials. It was also advised that some community provision should be made within the building as a focus for the community. Finally, whilst the green corridor was supported, it was considered that it was too "tailored" and should instead be a natural valley.

In response to the comments from the panel, amendments were carried out. The scheme sees the apartment blocks positioned along the south-western edge of the site to retain the important views of the adjacent pine copse at Round Hill and to improve the built definition between Paignton and Torquay. The joining up of the four blocks was considered, but the separation at higher levels was maintained to ensure that the frontage is not one solid, monotonous block. The separation allows flats to have more than one view out and gives a number of faces to the building, allowing sun penetration through to the communal areas and the parkland area beyond. Splays have also been added onto the gable end of the flats towards the sea to give a better aspect to the flats and better views and also to improve the internal illuminations to the communal corridor spaces.

The front element of Building 'A' has been placed in close proximity to Torbay Road to try to form a definite building boundary to Paignton and Preston, whilst retaining the green open space to the woodland and gardens of Round Hill. This would help to reinforce the historic boundary between the two towns, which runs along the valley floor.

The buildings have been designed with glazed atriums to incorporate lifts and stair wells. These circulations spaces would be overlooked and allow clear views into the park. Segregated refuse chutes would also be provided to enable easy recycling. Ceiling heights of at least 2.6 metres have been incorporated, together with large windows to the living spaces to ensure maximum light penetration.

In terms of scale, the previous gas holder was a dominant feature in the valley. At full capacity it would reach to a height of 37 metres above the valley floor. The buildings have been designed to be robust in appearance and to reflect the industrial heritage of the site. The architect has endeavoured to balance the height and mass of the overall development with the parkland and adjacent valley slopes, which have allowed the introduction of the six-storey element to Building 'A'. This also allows the creation of a landmark building.

The façade of the building has been created through the use of the spaces within, with the introduction of large, glazed openings and balconies to the living spaces and smaller windows to bedroom areas. The penthouse and terraces have been separately defined to make the most of access to external space and to create semi private spaces for residents. Landscaped links are provided from the apartments to the park. Therefore, while much open space is provided for the residents, it is clearly defined that this would be private and not part of the open space adjacent. The open space also clearly leads visitors from one end of the site to the other without the requirement for pedestrian signage.

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

The car park areas would be screened from the park through the use of Torquay grey limestone in gabion baskets and cedar boarding, blocking views in but still allowing natural ventilation and further reinforcing the distinction between public and private spaces.

Flood Risk

The site is, in part, under flood risk designation and hence the local authority should be satisfied that there are no reasonably available sites appropriate for the proposed development in lower areas of flood risk. Whilst the site is, in flood risk terms, less preferable to sites within flood risk Zone 1 and 2, the site is nonetheless sequentially preferable in terms of the desire to develop brownfield land, the alternatives to the development of this site for large scale housing sites are likely to be in more peripheral Greenfield locations and in the case of sites to the west of Paignton for example, they also have flood risk considerations of their own.

In any event, given the need for housing, the wider sustainability benefits such as the remediation and the provision of a public park and improved access routes, it is considered that the proposal would satisfy the exceptions test, as advised in Paragraph 102 of the NPPF. The site specific flood risk assessment has demonstrated to the EA and LPA satisfaction, how the development would be safe for its lifetime.

It is recognised that at the time of the Local Plan Inquiry the Environment Agency did not raise an objection to the allocation of the site for housing and through consultation during the previous two public advertisement periods no overriding objection was raised by the Environment Agency.

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

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

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

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

water from other sites in the locality.

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

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

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

The matter of flood risk is explored within the ES and it was concluded that there would be no significant effect. It is concluded that there are no new issues in relation to flood risk, the Environment Agency does not object to the development, and the matters can be dealt with through appropriate conditions and s106 clauses.

Land Contamination & Remediation

The proposal is now accompanied by an ES that utilises the previous extensive documentation on the topic, as the matter has been a known constraint throughout and previously explored in-depth. The core methodologies remain unaltered and they are presented below as a summary;

Remediation Options Appraisal

Strategic document that seeks to identify the best practicable techniques for the remediation of the known significant pollutants and offer the building blocks to draw out a suitable detailed remediation design strategy.

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

Remediation Strategy Report

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

environmental impacts.

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

- Where suitable, contaminated soil will be excavation and treated on site utilising engineered biopiles. This is a method for encouraging the natural microbial breakdown of hydrocarbons in soil by optimising the conditions. The process is ultimately to clean the soil in situ for on-site reuse.
- Where contaminated soil cannot be treated and cleaned through the biopile process it will be removed from site and sent to land fill.
- In respect to contaminated water, it is proposed to excavate and treat groundwater affected by contamination via an on-site 'pump and treat' system. This process aims to clean affected water on site by extracting through created wells via an enclosed pumping system. The water is then passed through a series of filters or gravity separators in order to remove contaminants. Clean water is then held and then discharged back into the controlled water system with consent from the Environment Agency.
- The soil and water treatments above will subsequently be supported by a cover system across the site comprising of a layer of clean hardcore and a layer of imported clean soil. The rationale behind the process is to limit the level of soil excavation and to provide an extra measure of security and limit the potential upward migration aided by earthworms, mammals etc.
- The report also outlines the procedure for the investigation of areas not currently accessible or previously tested.
- The report also provides the methodology to ensure the site is safe for its intended use and for future users.

Site Specific Remediation Specification and Method Statements

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

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

In regard to policy the recently published NPPF offers guidance that the planning

system should contribute to and enhance the natural and local environment by:

- Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability;
- Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate (para 109).

The NPPF also cites that to prevent unacceptable risks of pollution planning decisions should ensure new development is appropriate for its location and should take into account the effects of pollution on health, the natural environment or general amenity, with the potential sensitivity of the area or development to adverse effects from pollution being a consideration. It also confirms that where a site is affected by contamination responsibility for securing a safe development rests with the developer and /or landowner (para 120).

The NPPF further states that planning decisions should ensure the following:

- The site is suitable for its new use, taking into account matters including ground conditions and pollution from former uses and any proposals for mitigating through remediation or the impacts on the natural environment arising from that remediation
- That after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990
- That adequate site investigation information, prepared by a competent person, is presented (para 121).

The final note offered by the NPPF is that when considering all of the above, local planning authorities should focus on whether the development itself is an acceptable use of the land and whether the impact of the use itself is acceptable. This as opposed to the control of processes or emissions themselves should be the focus of planning decisions, as these matters are subject to approval under pollution control regimes. It is added that local planning authorities should assume that these regimes will operate effectively (para 122).

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

As a summary of this 2008 independent review Atkins recommended that a number of further works should be undertaken in order to provide more robust

methodologies and to fill information gaps. Notwithstanding this, with consideration of the site-specific context and relevant statute, the recommendation to the committee outlined that a suitable remediation process could be dealt with under planning condition, with a draft condition detailing the blueprint for this. It was however agreed at the committee meeting that satisfactory further information in respect to this matter should be submitted.

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

In respect to due consideration of the matter it was asserted that the Local Planning Authority should be in a position to meet the following objectives;

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

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

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

As a result of public concern the Authority agreed to the request to once again commission Atkins to review the proposals in order to provide independent professional advice on whether the remediation methods proposed were fit for purpose. Atkins were instructed to review the proposals in light of the two central statutory requirements. The subsequent conclusions of the report summarised the following;

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

Atkins' summarised conclusion to Objective 1: Atkins considers that the remediation strategy will be appropriate to mitigate potential risks presented to

identified human health receptors, including local residents and members of the school, from contamination currently present at the site during the remediation process. Atkins considers that certain remaining items relating to the remediation strategy could be adequately controlled under conditioned planning approval.

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

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

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

Following the decision to defer, the applicant reviewed their submitted remediation documents and subsequently submitted a further explanatory document that sought to clarify that such concerns were misguided and that the appropriate risk assessments were engrained in the methodology.

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

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

by the reasonable daily exposure pathways from the proposed works.

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

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

It was therefore concluded that at this point (2010) the extensive documentation put forward for assessment and multitude supportive comments from professional bodies, from the Authority's Community Safety Team, Atkins Consultants and The Environment Agency, the HPA, opinion was that the LPA could be satisfied that the works can be carried out in such a way that risk to both the community and eventual occupiers of the site is kept to a minimum. It is also officers' opinion that the developer is capable of implementing the works in the prescribed manner. As such the duty of the Local Planning Authority on this matter can be fully discharged with reliance on the information submitted and the peer review of the process.

In conclusion, the development proposed was considered appropriate for the land, and with regard to the information available in regard to contamination and remediation, it was concluded that the LPA would be in a position to grant planning permission, subject to the appropriate planning conditions set out by the Authority's Community Safety Team.

The remediation package has been subject to an extensive peer review and the Authority's Community Protection Team, together with Atkins consultants and the EA, had previously confirmed their acceptance of the strategies and methodologies involved, subject to suitable planning conditions. The Community Safety Team and the EA have reviewed that ES and advised that their previous conclusions and support for approval with conditions remain unchanged.

Highway / Transport / Accessibility

The proposal retains the highway solution that was resolved to be approved at

the last committee. To reiterate this scheme details two access points into the site, with three blocks being served off Torbay Road to the south and one block being served off old Paignton Road to the north.

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

- Maintains a designated carriageway for the existing main road past the entrance to the site
- Provides a designated right hand turn set within a central refuge area to give access from the Paignton-bound carriageway
- Provides two designated pedestrian crossing areas with central refuge points
- Provides localised improvements to the cycle and foot path
- The absence of controlled turnings and crossings permit a less intrusive pattern of road treatments, which provides the potential for the road layout outside of the site to sit more comfortably with the adjacent pedestrian plaza area that extends around the site entrance.

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

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

The above detailed highway solution has evolved following a number of stakeholder meetings with the school and community members, which subsequently received member support when the application was last seen by the committee.

The highways department had previously explored a request for a Zebra Crossing to be incorporated within the existing highway improvements on Old Paignton Road. Highways opinion is that the relative traffic and pedestrian movements within the vicinity of the site means that a Zebra Crossing would not be appropriate in the location proposed (adjacent to Preston Primary School). This is principally due to the fact that the crossing would experience sporadic use

outside of the busy school times. This is because pedestrians would assume relative safety on a controlled crossing, whilst at the same time drivers would assume the crossing would not be in use outside of school times. The scheme submitted, in the absence of a controlled crossing, is therefore considered the most appropriate and safe and is fully supported by the Authority's Highways Department.

Ecological issues

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

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

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

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

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

No populations of specially protected invertebrates have been identified. The report notes that a Deaths' Head Hawk Moth was found on site in 2007 but this is of no ecological significance. The species is not native to the UK, but is a

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

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

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

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

Arboriculture Issues

The trees have been divided into the following tree categories:–

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

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

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

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

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

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

No new arboricultural issues are raised and the proposal remains acceptable in this respect.

Drainage

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

Archaeology

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

Affordable Housing

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

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

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

1. The concept of older persons accommodation requires the accommodation to be grouped together to reduce social isolation and improve internal support networks.
2. Applicants looking to downsize out of their larger family accommodation will get priority for the affordable rented homes. This will free up family accommodation for other households on the waiting list.
3. Due to its location the affordable block will be built first ensuring that these

homes are available much sooner than if the homes were delivered over all four blocks.

4. Grouping the affordable homes within one block ensures that the service charges are kept to an absolute minimum, making the properties more affordable and it will assist with the management of the block as a whole.
5. A single block enables all of the affordable dwellings to be designed and constructed to suit specific design requirements and space standards. The affordable block will meet Level 3 of the Code for Sustainable Homes.

Housing Services has considered all of the information provided and accept the findings of the viability report and support the current proposal subject to the applicant entering into a satisfactory S106 agreement which includes a deferred contributions clause to safeguard against the prospect of the development becoming more viable over time.

S106 / CIL

In respect of current guidance the Council's adopted SPD on s106 contributions would trigger the following contributions;

30% Affordable housing (which equates to 56 units)

Education	£ 32,000*
Greenspace	£167,083
Sustainable Transport	£258,028
Street Wardens	£ 18,916
Learning Skills	£ 44,569
Waste & recycling	£ 7,752

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

In respect to the above referenced planning contributions the adopted SPD prioritises affordable housing over the following six 'sustainable development' contributions. The SPD also states that development viability is a material consideration in the determination of a planning application and should be taken into account when deciding the level of planning contributions and affordable housing that a proposed scheme should be required to provide.

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

following:

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

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

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

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

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

In consideration of the reduced s106 offer, the Council has commissioned an independent review of the applicant's viability study by Belvedere Vantage Ltd. This review included a meeting between the Council, the Applicant, Savills and Belvedere Vantage on the 28th September 2010 to discuss the background to the scheme and was followed by a detailed analysis of the applicant's viability study, backed up by conversations and correspondence with the Council, the Applicant and Savills. The Review was also informed by independent research and financial modelling.

The Belvedere Vantage Review finds that the methodology and assumptions used within the applicant's viability study are reasonable and that the financial modelling within the viability study is generally optimistic. Accordingly, the Belvedere Vantage Review concludes that this is a good offer from the applicant taking into account the risk of embarking on a scheme of this nature in the current climate.

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

In the eventuality of increased profit over and above the assumed developer margin, the s106 will therefore provide for the payment of appropriately mitigated commuted sums towards sustainable development infrastructure.

Conclusions

The proposal has been previously resolved to be approved subject to the receipt of comments of the Secretary of State, the completion of a s106 Legal Agreement, and the inclusion of an additional condition that tenting will be used as an appropriate remediation strategy, unless otherwise agreed by the Council's Environmental Health Officer on safety grounds.

The Secretary of State (SOS) subsequently determined that the scheme is EIA development and should be accompanied by an Environmental Statement (ES). The scope of the ES issued by the SOS did not however contain areas of potential significant effect that had not been previously explored by the applicant and thus the process has brought about the re-issuing of data, updated where required, to satisfy the statutory requirements of the process. Importantly it should be appreciated that the conclusions in the ES are commensurate with those that have previously been established, and that consultees have fundamentally reiterated their previous comments due to the lack of any change in circumstance.

Considering the lack of clear change in regard to the scheme, along with the retention of the save local plan as the primary policy consideration, the scheme remains acceptable on planning merit and will result in the remediation of contaminated land, provide much needed new dwellings, and a platform for the creation of a new area of public open space, which would link to a wider recreational corridor.

In the intervening period, national guidance has changed with the emergence of the NPPF as the key policy document. It is however considered that the application sits comfortably with the core principles of there being a presumption in the favour of sustainable development unless other material considerations show otherwise, and the approval of development without delay should it accord

with the local plan.

To conclude on key topics of concern in regard to decontamination, professional peer advice and appraisal by external bodies corroborates the developer's contention, that the remediation of the site is acceptable in relation to both human health and the environment. The processes also convey that it will provide a safe and clean site for future users and residents on the site. With suitable planning conditions to manage outstanding matters, the remediation process remains appropriate.

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

In light of the viability issues surrounding this contaminated site the Section 106 arrangements are considered to provide contributions inline with corporate priorities and ensures wider benefits are secured through remediation of land, the provision of a new public park, and enhancements to walking and cycling within a wider strategic recreational corridor. Any reduced package should be supported by a deferred contributions clause commensurate with the Council's adopted policy aims.

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

Condition(s)/Reason(s)

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

Reason: To ensure that the scheme is implemented within an agreed timetable

and that essential elements of the scheme are delivered at an appropriate stage and to comply with policies HS, H1, H6, H9,H10, H11, L10, BE2, TS, T1, T2, T25, T26 and T27 of the saved adopted Torbay Local Plan 1995-2011 and guidance contained within the NPPF.

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

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

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

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

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

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

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

Reason: To ensure that any subsequent proposals maintain the appearance and

character of the original development and to protect residential amenities, in accordance with Policies H9, BES and BE1 of the saved adopted Torbay Local Plan 1995-2011.

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

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

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

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

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

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

09. Prior to the occupation of the dwellings hereby approved, details of the provision of external bat boxes shall be submitted to, and approved in writing by the Local Planning Authority. The bat boxes shall then be provided on-site prior to the first occupation of the units.

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

10. The dwellings within each of the respective blocks shall not be used/occupied until the vehicle parking areas shown on the approved detailed

plans associated with that block have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

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

11. The waste storage facilities shown on the approved plans associated with the respective blocks shall be completed and made available for use prior to the first occupation of any of the residential units within the relevant block hereby approved and shall be so retained for the duration of any residential occupation of the buildings.

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

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

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

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

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

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

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

Reason: To ensure a satisfactory form of development in accordance with Policies BES & BE1 of the saved adopted Torbay Local Plan 1995-2011 and guidance contained within the NPPF.

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

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

16. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.

i) These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.

ii) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.

iii) The landscape works established as part of the development shall be managed in accordance with an approved Landscape Management Plan/Schedule for a period of 10 years from the first occupation of the site.

iv) The landscape management plan which shall include long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, other than the small, privately owned gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The landscape management plan shall be carried out as approved.

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

17. No works or development shall be carried out until the Local Planning Authority has approved in writing the full details of which trees and shrubs are to

be retained, by reference to a plan showing the location of every tree which has a stem with a diameter of over 75 millimetres (measured over the bark at a point 1.5 metres above ground level), and either:

- (a) is on the application site; or
- (b) is on adjacent or nearby land and is located so that the application site includes land within the outermost limit of its crown spread or any land at a distance from the tree equal to half its height.

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

18. The protection of any existing tree to be retained in accordance with the approved plans and particulars as identified with the submitted arboricultural report numbered CBA6543 and dated January 2008 shall be achieved as follows:

- (a) no equipment, machinery or material shall be brought onto the site for the purpose of development until fencing has been erected in accordance with and the arboricultural report;
- (b) if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced to the satisfaction of the Council;
- (c) the fencing shall be maintained in position to the satisfaction of the Council, until all equipment, machinery and surplus materials have been moved from the site; and
- (d) within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavations shall be made, nor shall any fires be lit, without the prior written consent of the Council.

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

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

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

20. The development hereby approved shall not commence until sections and

elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;
- (ii) rain water goods;
- (iii) reveals to window/door openings;
- (iv) soffits;
- (v) mouldings;
- (vi) glazing bars.

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

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

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

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

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

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

23. Prior to the commencement of development a site specific assessment criterion for the soil used in the cover system shall be submitted to the Local Planning Authority and agreed in writing. The assessment shall take into account up to date guidance including the Environment Agency Guidance on soil from 2009. All subsequent remediation target criteria (for example for TPH, PAH

and hexavalent chromium) shall be produced in accordance with the up to date human health risk assessment guidance (currently CLEA 2009). The remediation works shall be implemented in strict accordance with the agreed criterion.

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

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

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

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

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

26. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to the Local Planning Authority an amended investigation and risk assessment and, where necessary, an amended remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with. The amended investigation and assessment documentation shall be agreed in writing by the Local Planning Authority prior to the continuation of the works and the works shall continue in strict accordance with the agreed revised

methodology.

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

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

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

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

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

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

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

30. Prior to the commencement of any works on the site, asbestos must be

added to the suite of contaminants being tested for under section 2.2 of the submitted "Outline Method Statement: Validation Of Soil And Groundwater Remediation, dated 28 October 2010.

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

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

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

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

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

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

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

34. Prior to the commencement of any form of remediation works a detailed proposal for the use of a remediation tenting system, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Health Protection Agency (HPA) and the Health and Safety Executive (HSE). The scheme, which shall identify all areas where 'tenting' will be utilised as a secondary dust control measure, shall then be carried out wholly as per the agreed submission, unless subsequently agreed in writing by the Local Planning

Authority.

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

Informative(s)

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

02. It is recommended that emergency procedures for the nearby school should be discussed with the school prior to the remediation works commencing.

Relevant Policies

BES Built environment strategy
BE1 Design of new development
BE2 Landscaping and design
TS Land use transportation strategy
T1 Development accessibility
T2 Transport hierarchy
T3 Cycling
T18 Major Road Network
T25 Car parking in new development
T26 Access from development on to the highwa
T27 Servicing
EPS Environmental protection strategy
EP3 Control of pollution
EP6 Derelict and under-used land
EP7 Contaminated land
CFS Sustainable communities strategy
CF6 Community infrastructure contributions
CF7 Educational contributions
RS Recreation and leisure strategy
R11 Footpaths
HS Housing Strategy
H1 New housing on identified sites
H6 Affordable housing on unidentified sites
H9 Layout, and design and community aspects
H10 Housing densities
H11 Open space requirements for new housing
INS - Infrastructure strategy
IN1 Water, drainage and sewerage infrastructure

W7 Development and waste recycling facilities
LS Landscape strategy
L4 Countryside Zones
L8 Protection of hedgerows, woodlands and o
L9 Planting and retention of trees
L10 Major development and landscaping
NC3 Protected sites - locally important site
NC5 Protected species
EP1 Energy efficient design
EP2 Renewable energy
EP4 Noise
EP5 Light pollution
EP11 Flood control
EP12 Coastal Protection Zone
PPS1 Delivering Sustainable Development
PPS3 Housing
PPS23 Planning and Pollution Control
PPG13 Transport
LDD6 Affordable Housing Contributions

Application Number

P/2012/0578

Site Address

Princess Promenade
Torquay
Devon

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Removal of upper and lower deck of Banjo and link steps

Executive Summary/Key Outcomes

Demolition of both decks of the Banjo.

Recommendation

Approval; subject to the further views of English Heritage in respect of further justification for the demolition of the structure.

Site Details

See report for P/2012/0579.

Detailed Proposals

Conservation Area Consent for demolition of the Banjo.

Summary Of Consultation Responses

English Heritage: Consider that there is insufficient justification for demolition and have requested a Heritage Impact Assessment be carried out. Their comments are appended to P/2012/0579/R3.

Summary Of Representations

None.

Relevant Planning History

P/2012/0579/R3 is a sister application for replacement of the lower deck and is recommended for approval elsewhere on this agenda.

Key Issues/Material Considerations

The demolition of the Banjo is necessitated by its structural condition as detailed in the sister report. Justification for this has been requested and will be forwarded to English Heritage. Progress on this will be reported verbally.

The structure was constructed in the 1960s as an extension to Princess Gardens and was designed to provide a public viewing platform. It has been in a poor structural condition for several years and public access was denied until recent works were completed to reinforce the support to the promenade.

The Councils archaeologist has been involved in the evolution of the proposal and is satisfied that the removal of the structure is justified due to its physical condition. The improved relationship between the gardens and the harbour (through the opening up of views from the gardens) and the improvement to form a layout more akin to the original for this site are also important considerations. Furthermore, the structure is a later (1960s) addition to the setting to the park and its contribution to the character of the place is not considered so significant as to warrant its retention in its current form.

Conclusions

The demolition is considered acceptable in planning terms, removing a later addition, improving the relationship of the gardens to the sea and removing a structure in poor condition.

Relevant Policies

-

Agenda Item 7

Application Number

P/2012/0579

Site Address

Princess Promenade
Torquay
Devon

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Replacement of lower deck and the Banjo, in filling of void areas between deck and Banjo wall; extension of steps

Executive Summary/Key Outcomes

This application involves the removal of both decks of the Banjo and the replacement of the lower deck to provide an extended viewing platform.

Recommendation

Approval; subject to the further views of English Heritage in respect of the requested further justification for the associated demolition.

Site Details

The Banjo comprises a 2 storey concrete viewing platform which was constructed in the 1960s as an extension to Princess Gardens. Princess Gardens is a Grade II entry on the Register of Historic Parks and Gardens. Although the Banjo is not included within the curtilage of the protected garden it is an important part of its overall character and use for promenading. The site lies within the Torquay Harbour Conservation Area.

Detailed Proposals

It is proposed to remove both of the decks of the Banjo leaving the concrete supports in place. The lower deck will then be replaced with a similar structure except that it will include infilling the existing voids between the deck and the rear wall of the banjo. The existing steps will be widened from the eastern and western promenades. The replacement deck will be surfaced in an imprinted design to 'harmonise' in colour and pattern with the granite slabs recently laid on the eastern prom. The existing railings will be reinstalled and the residual parapet wall to the rear of the Banjo will be finished at 1.1m in height and include

a railing detail.

A cathodic protection system is to be installed to the original reinforced concrete supporting structures.

Summary Of Consultation Responses

English Heritage: Has commented that they need a more detailed understanding of the rationale for and benefit of these works through a Heritage Impact Assessment. These comments are attached as N.....

Summary Of Representations

None.

Relevant Planning History

None.

Key Issues/Material Considerations

The structure was constructed in the 1960s as an extension to Princess Gardens and was designed to provide a public viewing platform. It has been in a poor structural condition for several years and public access was denied until recent works were completed to reinforce the support to the promenade.

The key issue is the acceptability of the proposal from an historical / architectural perspective in terms of the evolution of Princess Gardens and it is this point that EH have requested be addressed through a Heritage Impact Assessment. This should explain the significance of the structure in terms of the evolution of the gardens, evaluate the reasons for the works and the advantages or otherwise of replicating it in the manner proposed. This assessment has been requested and is being carried out. Progress on this will be reported verbally.

The Councils archaeologist has been involved in the evolution of the proposal and is satisfied that the removal of the structure is justified due to its physical condition and the replacement of the lower deck only is appropriate in terms of the character of the gardens. The opening up of views from the gardens will be more in keeping with the original layout.

The infilling of the void to the rear of the retaining wall creates a larger platform for public use and allows the access steps to be widened which helps create a more inviting space.

Conclusions

It is considered that the works are acceptable. However the concerns of English

Heritage need to be considered and where appropriate included in the approach to the scheme.

Recommendation:

Approve; subject to the views of English Heritage and the following conditions:

1. Samples of surfacing materials for platform and steps.
2. Detail of railing to rear retaining wall.

Relevant Policies

-

Agenda Item 8

Application Number

P/2012/0416

Site Address

Collingwood
38 Braddons Hill Road East
Torquay
Devon
TQ1 1HB

Case Officer

Mr Adam Luscombe

Ward

Wellswood

Description

Balcony and additional apartment at roof level

Recommendation

Conditional Approval

Site Details

The site contains a Grade II Listed early-mid 19th Century villa which has suffered fire damage and been in part reconstructed with additional development in the grounds.

Detailed Proposals

It is proposed to convert the existing single unit within the roof space into two, one-bedroom, units. Changes are also then proposed to the existing windows where it is proposed to form two doors leading to onto a new balcony area.

Summary Of Consultation Responses

Senior Heritage and Design Officer. Proposed area for alteration is within the area of new build following the fire. The alterations will not impact on the original character of the listed building.

Summary Of Representations

Letters of objection have been received. These raise concerns for:

Parking
Size of accommodation
Unfinished existing development
Overlooking
Works to a Grade II Listed Building
Overdevelopment

The objections have been lodged against both the listed building consent and

planning application. They are re-produced at Page T.200.

Relevant Planning History

P/2006/1111 Restoration And Conversion To 9 Apartments And 2 Houses
(As revised by plans received 16 October 2006 and 23 October 2006 and letter dated 20 October 2006) – PERMITTED 28.11.2006

Key Issues/Material Considerations

The key considerations for this application concern the impact on neighbouring amenity; adequacy of residential environment created; and effect on the Listed Building and its historic character and qualities.

In this case, in terms of the amenity of neighbours, whilst a balcony is proposed it is not considered that it would have any significant adverse effect. It would have potential to have a marginally greater impact than the existing relationship of the property, for instance from first floor windows. However, with limitations of the extent of the balcony which can be used this could be overcome.

In considering the suitability of the residential environment created, and that of the one lost, it is noted that a much larger unit would be lost by through the proposal. However, the two created units are still ample in space and size, providing one and two-bedrooms respectively. In addition, with the associated alterations, there would be external amenity space created which would improve the environment for the occupants.

Regarding the impact on the character of the Listed Building, this property has unfortunately suffered significant damage in the past and as a result has had to be re-built. Whilst the listing still stands this part of the building was an aspect that was rebuilt and as such does not hold any historic value. The changes are in keeping however with the wider character and would not cause any adverse effect on the general historic qualities of the building.

The car parking situation is noted to include two spaces for the existing unit. The inclusion of one additional unit, at a smaller size, should not be restrictive in this central location. To ensure though that sufficient parking is provided for the use of the development details were requested and those submitted will need to be adhered to.

S106/CIL - In considering the application the proposal has been assessed against the provisions of the Planning Contributions and Affordable Housing Supplementary planning Document and, in line with that policy document, it is considered that a contribution of £1360 would be required. This contribution represents the difference between an existing unit of approximately 160sq metres and two proposed units measuring approximately 63 and 76sq metres each. The assumed contribution for the existing unit was deducted from the total required for the two new units as mitigation for the existing use and subsequent

demands on local infrastructure.

Conclusions

The proposed development is not considered to cause any significant harm to the character, or appearance, of the Listed Building. Furthermore the development would not result in overdevelopment through the addition of one more unit and a reduction from 4 bedrooms to 3 overall. Having considered the details of the application and representations submitted the proposal is considered to accord with the provisions of the Saved Adopted Torbay local Plan 1995-2011 and as such the application is recommended for approval.

A site review meeting was undertaken, given the objection to the proposals. Following that meeting it was considered appropriate for the application to be put before the Development Management Committee.

Condition(s)/Reason(s)

01. The agreed vehicular parking arrangements shall be set out on site and maintained in accordance with the details hereby approved prior to occupation of the unit hereby approved, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure adequate parking is provided and maintained in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995-2011.

02. Notwithstanding the plans as hereby approved, prior to first use of the balcony hereby approved, a section of the balcony from the West up to the first window shall be blocked and not made available for use as a balcony. The block shall be no higher than the existing parapet wall. The use of that area shall be for maintenance only and not for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the amenity of the neighbouring occupiers is maintained in accordance with policies H4 and H15 of the Saved Adopted Torbay Local Plan 1995-2011

Relevant Policies

BES Built environment strategy
BE1 Design of new development
BE5 Policy in conservation areas
BE6 Development affecting listed buildings
HS Housing Strategy
H2 New housing on unidentified sites
H4 Conversion and sub-division into flats

- H9 Layout, and design and community aspects
- H10 Housing densities
- T2 Transport hierarchy
- T3 Cycling
- T25 Car parking in new development
- H15 House extensions

Agenda Item 9

Application Number

P/2012/0414

Site Address

Collingwood
38 Braddons Hill Road East
Torquay
Devon
TQ1 1HB

Case Officer

Mr Adam Luscombe

Ward

Wellswood

Description

To form balcony and additional apartment at roof level

Recommendation

Conditional Approval

Site Details

The site contains a Grade II Listed early-mid 19th Century villa which has suffered fire damage and been in part reconstructed with additional development in the grounds.

Detailed Proposals

It is proposed to convert the existing single unit within the roof space into two, one-bedroom, units. Changes are also then proposed to the existing windows where it is proposed to form two doors leading to onto a new balcony area.

Summary Of Consultation Responses

Senior Heritage and Design Officer – proposed area for alteration is within the area of new build following the fire. The alterations will not impact on the original character of the listed building.

Summary Of Representations

Letters of objection have been received. These raise concerns for:

Parking
Size of accommodation
Unfinished existing development
Overlooking
Works to a Grade II Listed Building
Overdevelopment

The objections have been lodged against both the listed building consent and

planning application. They have been re-produced at Page T.201.

Relevant Planning History

P/2006/1111 Restoration And Conversion To 9 Apartments And 2 Houses
(As revised by plans received 16 October 2006 and 23 October 2006 and letter dated 20 October 2006) – PERMITTED 28.11.2006

Key Issues/Material Considerations

The key considerations for this application concern the impact on neighbouring amenity; adequacy of residential environment created; and effect on the Listed Building and its historic character and qualities.

In this case, in terms of the amenity of neighbours, whilst a balcony is proposed it is not considered that it would have any significant adverse effect. It would have potential to have a marginally greater impact than the existing relationship of the property, for instance from first floor windows. However, with limitations of the extent of the balcony which can be used this could be overcome.

In considering the suitability of the residential environment created, and that of the one lost, it is noted that a much larger unit would be lost by through the proposal. However, the two created units are still ample in space and size, providing one and two-bedrooms respectively. In addition, with the associated alterations, there would be external amenity space created which would improve the environment for the occupants.

Regarding the impact on the character of the Listed Building, this property has unfortunately suffered significant damage in the past and as a result has had to be re-built. Whilst the listing still stands this part of the building was an aspect that was rebuilt and as such does not hold any historic value. The changes are in keeping however with the wider character and would not cause any adverse effect on the general historic qualities of the building.

The car parking situation is noted to include two spaces for the existing unit. The inclusion of one additional unit, at a smaller size, should not be restrictive in this central location. To ensure though that sufficient parking is provided for the use of the development details were requested and those submitted will need to be adhered to.

S106/CIL - In considering the application the proposal has been assessed against the provisions of the Planning Contributions and Affordable Housing Supplementary planning Document and, in line with that policy document, it is considered that a contribution of £1360 would be required. This contribution represents the difference between an existing unit of approximately 160sq metres and two proposed units measuring approximately 63 and 76sq metres each. The assumed contribution for the existing unit was deducted from the total required for the two new units as mitigation for the existing use and subsequent

demands on local infrastructure.

Conclusions

The proposed development is not considered to cause any significant harm to the character, or appearance, of the Listed Building. Furthermore the development would not result in overdevelopment through the addition of one more unit and a reduction from 4 bedrooms to 3 overall. Having considered the details of the application and representations submitted the proposal is considered to accord with the provisions of the Saved Adopted Torbay local Plan 1995-2011 and as such the application is recommended for approval.

A site review meeting was undertaken, given the objection to the proposals. Following that meeting it was considered appropriate for the application to be put before the Development Management Committee.

Condition(s)/Reason(s)

01. The agreed vehicular parking arrangements shall be set out on site and maintained in accordance with the details hereby approved prior to occupation of the unit hereby approved, unless otherwise agreed in writing by the local planning authority.

To ensure adequate parking is provided and maintained in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995-2011.

02. Notwithstanding the plans as hereby approved, prior to first use of the balcony hereby approved, a section of the balcony from the West up to the first window shall be blocked and not made available for use as a balcony. The block shall be no higher than the existing parapet wall. The use of that area shall be for maintenance only and not for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the amenity of the neighbouring occupiers is maintained in accordance with policies H4 and H15 of the Saved Adopted Torbay Local Plan 1995-2011

Relevant Policies

BES Built environment strategy
BE1 Design of new development
BE6 Development affecting listed buildings
BE5 Policy in conservation areas

Application Number

P/2012/0327

Site Address

Lewton Lodge
Adelphi Lane
Paignton
Devon
TQ4 6AS

Case Officer

Mr Alexis Moran

Ward

Description

Change of use from 2 Holiday apartments to 2 Residential apartments

Executive Summary/Key Outcomes

The application seeks permission for a change of use from two self contained two bed holiday units to two full time residential units of accommodation.

When measured against Local Plan policy TU6 it is considered that the proposal does not satisfy all of the requirements of the policy and therefore is not acceptable for approval.

Recommendation

Refusal

Site Details

The site, Lewton Lodge, Adelphi Lane, Paignton, is currently in use as two self contained two bedroom holiday apartments, one on the first floor and one on the second with an area marked out for storage on the ground floor.

The site is located to the rear of The Commodore Hotel on Esplanade Road which makes up part of an integral frontage to the Paignton Seafront South Principal Holiday Accommodation Area (PHAA).

Detailed Proposals

Permission is sought for a change of use for the unit from two self contained holiday apartments to two permanent residential apartments.

Summary Of Consultation Responses

None.

Summary Of Representations

2 Letters of support had been received at the time of the June Development Management Committee meeting. A further letter of support has now been

received from Carolyn Custerson, Chief Executive Officer of the English Riviera Tourism Company. This letter states that allowing a mix of uses in this part of the PHAA, i.e. the rear of Esplanade Road, would be beneficial to all involved. These are re-produced at Page P.201.

Relevant Planning History

None

Key Issues/Material Considerations

The property is situated within a Principal Holiday Accommodation Area, as defined by policy TU6.11 of the Saved Adopted Torbay Local Plan 1995-2011. 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 uses from holiday accommodation to permanent residential occupation.

As a result of recent changes in holiday trends and more importantly the recent severe economic problems, policy TU6 has been examined again and re-interpreted to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. Two years ago the Council adopted a revised interpretation of the PHAA policy. Prior to its adoption, this Revised Guidance was the subject of public and stakeholder consultation. Although the Revised Guidance on PHAA's does not form part of the Local Plan, it is capable of constituting a material consideration which can be weighed against others when determining whether consent may be granted.

"Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)" (March 2010) sets out a traffic light based approach whereby PHAAs were colour coded into 3 areas. This site sits within Paignton Seafront South PHAA which was identified as a red area. Paragraph 3.4 of the Revised Guidance states that in these areas it is essential to maintain and enhance the holiday use and character. In other words there is a presumption that residential use will be resisted.

Although the property is within a red zone it is on the boundary with a Green Zone where the conversion of units of this size would, in principle, be considered to be acceptable. The property is separate to and located at the rear of an integral building within the PHAA and it may be deemed that it has been added to the red zone by association rather than on the basis of its importance as a unit of holiday accommodation.

Policy TU6 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 premises, on the whole, has a basic range of facilities, however there is little scope for improving the holiday facilities.

It is deemed that the unit does have restricted bedspace capacity due to its size and limited potential for extension.

There is a mix of holiday and residential uses in the area however it is considered that the prevailing character is that of holiday use. No supporting advice has been provided to show that the current use as holiday apartments is unviable. If further properties were granted permission for residential use it would further undermine the holiday character of the area setting a precedent for the continuation of the loss of holiday accommodation in this Principal Holiday Accommodation Area. As such the change of use would not meet this aspect of policy TU6.

Suitable on site parking is available to accommodate two separate residential units.

The prevailing context of the immediate area is of a strong holiday character and with many properties along the road being in holiday use. The property offers two, tow bedroom units of accommodation in close proximity to the seafront and the town centre, providing an appropriate range of facilities and standard of accommodation to meet the reasonable requirements of tourists.

Policy TU6 is the starting point in determining this application. It is the officers view that the tests set out in TU6 have not been met. Similarly the Revised Guidance would not support the proposed change of use. As such in accordance with the requirements of TU6 this application should not be permitted.

S106/CIL -

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.

In line with Government advice, sound economic principles and principles of sustainable development, the Council has decided that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. To this aim, the Council has now adopted policy in line with Central Government legislation and advice from the Government Office for the South West which provides justification for this approach and levels of payments that would be sought in relation to specific developments. This is detailed in Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The result of this assessment is that the following contributions will be required..,

Waste Management	£ 50.00
Sustainable Transport	£ 1,805.00
Education	£ 1,660.00
Lifelong Learning	£ 470.00
Greenspace	£ 1,185.00
Total Contribution	£ 5,170.00

(less 5% discount for upfront payment) **£ 4,911.50**

Conclusions

When this proposal is tested against the relevant policies of the Saved Adopted Local Plan it fails. The proposal is therefore not considered to be appropriate for planning approval and should be refused.

Supporting Information

This application was seen at the last Development Management Committee on the 18th June 2012. It was decided that the application should be deferred. At the Committee the possibility of looking into how the money generated from the potential sale or lease of the units could be used to supplement improvements to the main hotel was mentioned. This has been discussed with the applicant and it has been confirmed that this is not the intention. Instead it is understood that the applicant intends to continue using the units for holiday purposes but requires an open C3 residential use for mortgage purposes. This mortgage would then be used to pay for previous works to develop these units and therefore there would be no funds to reinvest into improvements to the main hotel.

Condition(s)/Reason(s)

01. The proposal to change the use from holiday to residential 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 Council consider that the proposal would specifically fail to meet tests (c) & (d) set out in policy TU6, and there are no 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 2: Economic Recovery Measures’, (adopted by the Council in June 2010.)

Relevant Policies

TU6 - Principal Holiday Accommodation Areas

Agenda Item 11

Application Number

P/2012/0396

Site Address

Units 1,4,5,6,7,8,9 And 12
Sunhill Apartments
19 Alta Vista Road
Paignton

Case Officer

Mr Robert Pierce

Ward

Roundham With Hyde

Description

Variation of Conditions to Change Use To Full Residential Use

The application seeks permission for the removal of restrictive conditions to allow 8 of the holiday flats to become residential.

When considered against Policy TU6 it is considered that the removal of the restrictive conditions is acceptable. Three other units in the block and others in the wider area have already gained permission for similar proposals.

Recommendation

Approval.

Site Details

Block of 12 holiday apartments situated on the south side of Alta Vista Road. Specifically this application relates to 8 of the flats.

Detailed Proposals

Permission is sought to vary conditions of the original planning applications (P/2004/0038) and (P/2003/0571) for the holiday apartments to allow 8 of the flats to be used as unrestricted residential dwellings.

Summary Of Consultation Responses

None.

Summary Of Representations

None.

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
P/2011/0271	Change of Use from Holiday Use to Residential Use Flat 11 Sunhill Refused 26th September 2011
P/2011/0215	As above Flat 2
P/2011/0437	As above Flat 3
P/2011/1202	Change of use Flat 2 Sunhill Approved 13 December 2011
P/2011/1197	As above Flat 3
P/2011/1192	As above Flat 11

Relevant Appeal Decisions :

APP/X1165/A/11/2154771 Goodrington Lodge Alta Vista Road Variation of Condition to allow permanent Residential Occupancy Appeal allowed 30th September 2011. Conclusion - The proposal would not harm the character or function of the PHAA.

APP/X1165/A/11/2155002, 2154467 and 2156709 Belvedere, Marine Drive, Paignton. Variation of Condition to allow permanent Residential Occupancy. Appeals Allowed 30th September 2011. Conclusions - The proposals would not harm the character of function of the PHAA

Key Issues/Material Considerations

The starting point for consideration is the fact that 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 uses from holiday accommodation to permanent residential occupation.

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 premises, on the whole, have a basic range of facilities, however, they are not all in the same ownership, so there is little scope for improving the holiday facilities.

It is deemed that the apartments do have restricted bedspace capacity as they are single units.

There is a mix of holiday and residential uses in the area and therefore there is not an overall strong holiday character. The principle of converting these units from holiday to residential is considered to be acceptable.

It is considered that a change from holiday to residential is unlikely to impact on the holiday character and atmosphere of the area as the apartments have limited functionality as units of holiday accommodation. Similarly, the units are self-catering and there are no convenience shops within easy walking distance, as such this may promote an unsustainable form of tourist accommodation.

Suitable on site parking is available to accommodate the residential units and is located to the rear of the premises and accessed via a driveway to the side elevation.

It is considered that the proposed change would meet all the test criteria of

Policy TU6.

As a result of recent changes in holiday trends and more importantly the recent severe economic problems, policy TU6 has been examined again and re-interpreted to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. Last year, the Council adopted a revised interpretation of the PHAA policy. Prior to its adoption, this Revised Guidance was the subject of public and stakeholder consultation. Although the Revised Guidance on PHAA's does not form part of the LDF or Local Plan, it is capable of constituting a material consideration which can be weighed against others when determining whether consent may be granted.

"Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)" (March 2010) sets out a traffic light based approach whereby PHAAs were colour coded into 3 areas. This site sits within Roundham Road PHAA which was identified as a green area. Para 3.17 of the Revised Guidance states that in these areas, the change of use of serviced accommodation with fewer than 50 letting bedrooms or holiday apartments is likely to be considered to meet the criteria in Policy TU6, so long as they don't offer particular facilities of importance to the resort. In other words there is a presumption that residential use will be acceptable.

In addition to this, a recent Appeal Decisions for similar proposals have to be taken into account, in particular the Inspector when considering the Goodrington Lodge Appeal was of the view that this PHAA has a limited holiday character and he gave considerable weight to the Revised Planning Guidance which supports residential use. The Inspector also was of the opinion that the proposal would be very unlikely to have any perceptible impact upon the 'holiday atmosphere' of the locality or demonstrably harm the character or function of the PHAA.

In view of the recent appeal decisions and the weight placed on the revised guidance, the proposed residential occupancy of these units is now considered to be acceptable.

S106/CIL -

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.

In line with Government advice, sound economic principles and principles of sustainable development, the Council has decided that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. To this aim, the Council has now adopted policy in line with Central Government legislation and advice from the Government Office for the South West which provides

justification for this approach and levels of payments that would be sought in relation to specific developments. This is detailed in Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The result of this assessment is that the following contributions will be required..,

Sustainable Transport	£ 9085	(Included 50% discount for change of use from Holiday Accommodation to Residential).
Lifelong Learning	£ 2330	
Greenspace	£ 6965	(Included 50% discount for change of use from Holiday Accommodation to Residential).
Education	£ 6210	
Waste Management	£ 400	
TOTAL CONTRIBUTION	£24990	

5% Discount for early payment £1250

£23740 payable as an upfront payment.

Conclusions

When this proposal is tested against policy TU6 of the Saved Adopted Local Plan, the revised guidance on this policy and the recent appeal decisions, it is considered to meet the criteria for conversion and would not cause demonstrable harm the character or function of the PHAA.

Informative(s)

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003.

The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

TU6, CF6 & CF7

Relevant Policies

TU6 Principal Holiday Accommodation Areas
CF6 Community infrastructure contributions

CF7 Educational contributions

Agenda Item 12

Application Number

P/2012/0516

Site Address

1 Southfield Road
Paignton
Devon
TQ3 2SL

Case Officer

Matt Diamond

Ward

Clifton With Maidenway

Description

Extend time limit - Formation of 12 - 2 bedroom flats with pedestrian/vehicular access (revised scheme) application P/2009/0281/MPA

Executive Summary/Key Outcomes

The application is to extend the time to implement planning permission reference P/2009/0281/MPA for the formation of 12 no. 2 bedroom flats with pedestrian/vehicular access (revised scheme) by grant of a new permission for the development. The principle of the development was approved by the previous consent and there are no material considerations since then to justify refusing the application now, including consideration of the National Planning Policy Framework (NPPF). A new S106 Agreement is required to relate to the new application.

Recommendation

Approval; subject to conditions as detailed at the end of this report and completion of a S106 Agreement to secure contributions in line with the Council's Planning Contributions and Affordable Housing SPD Update 3.

Site Details

The site is an area of land within the curtilage of and to the west of the 11 flats at 1 Southfield Road, with Kirkham Court to the west and properties fronting Redburn Road to the north. The site is located within the Old Paignton Conservation Area.

Detailed Proposals

The proposal is to extend the time to implement planning permission reference P/2009/0281/MPA for the formation of 12 no. 2 bedroom flats with pedestrian/vehicular access (revised scheme) by grant of a new permission for the development. Planning permission reference P/2009/0281/MPA was a revision to planning permission reference P/2008/0560 to provide 12 no. 2 bedroom flats instead of 12 no. 1 bedroom flats.

Summary Of Consultation Responses

Senior Heritage & Design Officer: Previous considerations regarding the proposed design and the impact on the conservation area remain of relevance.

English Heritage: No response.

Summary Of Representations

At the time of writing no public representations have been received. 10 days remain of the 21 day consultation period and any representations received during this time will be reported at Committee.

Relevant Planning History

P/2004/0079: Erection of two houses on land off Colley End Road within the grounds of 1 Southfield Road. Refused 4/3/2004.

P/2004/1131: Planning application for the erection of 3 dwellings with altered access drive and pedestrian vehicular access within the grounds of 1 Southfield Road. Approved 26/8/2004.

P/2006/0490/PA: Erection of 12 one bedroom flats. Refused 15/1/2006.

P/2007/0007: Erection Of 12 No 1 Bedroom Flats With Pedestrian/Vehicular Access; Remedial Works To Existing Building. Refused 6/3/2007. This application was subsequently dismissed at appeal; however, the Inspector stated in his report that 'the scheme would enhance the character and appearance of the conservation area' and 'would provide adequate parking for residents and visitors to the site'.

P/2008/0560: Formation of 12 no. 1 bedroom flats with pedestrian/vehicular access. Approved 3/7/2008.

P/2009/0281: Formation of 12 no. 2 bedroom flats with pedestrian/vehicular access (revised scheme). Approved 12/6/2009.

Key Issues/Material Considerations

As the principle of the development was approved by planning permission reference P/2009/0281, the key issues are any development plan policies and material considerations that have changed significantly since the original grant of permission. As such, the key issue is the acceptability of the proposals taking into account the National Planning Policy Framework (NPPF), which was published March 2012.

The National Planning Policy Framework (NPPF) replaces previous national planning guidance in the form of Planning Policy Guidance Notes, Planning Policy Statements and various other documents. It is a material consideration in decision-taking and Local Plan policies have more weight the closer they are to the policies in the NPPF. At its core is a presumption in favour of sustainable

development meaning development proposals that accord with the development plan should be approved without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.

Planning permission reference P/2009/0281 was approved taking into account the policies in the Local Plan. There are no policies in the NPPF that indicate the development should not be permitted or outweigh the relevant policies in the Local Plan.

With regard to housing applications, the NPPF states that they should be considered in the context of the presumption in favour of sustainable development (Para 49). In addition, a core principle of the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value; the land is not of high environmental value in this case. It is considered the proposal would not have a significant impact on the conservation area taking into account section 12 of the NPPF. It is considered 1:1 parking is appropriate taking into account paragraph 39 of the NPPF. Therefore, having considered the proposal against the NPPF, the scheme remains acceptable for planning approval.

S106/CIL -

In accordance with the Council's Planning Contributions and Affordable Housing SPD Update 3, the following contributions are required:

Waste Management	£ 600.00
Sustainable Transport	£15,168.00
Stronger Communities	£ 1,112.40
Lifelong Learning	£ 1,920.00
Greenspace	£ 6,553.00

The contribution towards waste management is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will pay the cost of providing bins to the proposed dwellings. It also complies with Local Plan Policy W7.

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards the cost of improvements to local bus facilities within the vicinity of the site, including shelters and real time passenger information. The NPPF and Local Plan Policy T2 promote sustainable transport

modes. The proposed dwellings would generate additional trips and should therefore contribute toward sustainable transport in the area.

The contribution towards stronger communities is justified in paragraphs 4.31-4.35 of LDD6 and will be used towards the provision of a street warden in the area.

The contribution towards lifelong learning is justified in paragraphs 4.47-4.51 of LDD6 and will be used towards the cost of improving provision at Paignton Library, specifically provision of Wi-Fi. The proposed dwellings would place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The contribution towards greenspace is justified in paragraphs 4.52-4.58 of LDD6 and will be used towards improving maintenance, management and equipment at Victoria Park. The proposed dwellings would place additional demand on the facilities at the park and the contribution will provide funding to mitigate the proposed development.

A Section 106 Agreement was signed in relation to planning permission reference P/2009/0281; however, a new agreement will need to be prepared to relate to the current application and take into account the contributions above. The applicant has agreed to these contributions and to pay the Council's legal costs for drafting the new agreement.

Conclusions

The principle of the development was approved by planning permission reference P/2009/0281 and there are no material considerations since then that would justify refusing the application now. This includes consideration of the National Planning Policy Framework (NPPF). A new Section 106 Agreement is required to relate to this application.

Condition(s)/Reason(s)

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

Reason: To ensure that archaeological remains are preserved and/or recorded in accordance with Section 12 of the NPPF and policy BE9 of the saved adopted Torbay Local Plan (1995-2011).

02. The development, hereby approved, shall not be commenced until details

of colour, type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority in writing.

Reason: To ensure a satisfactory form of development and in order that the development complies with policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

03. The development, hereby approved, shall not commence until sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;
- (ii) rain water goods;
- (iii) reveals, frame thicknesses, glazing bars and types of opening to windows/doors;
- (iv) sub cills;
- (v) slating/tiling;
- (vi) handrails.

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

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard in accordance with policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

04. No development shall be commenced until details of the proposed roof slate have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory form of development, in accordance with policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

05. The building shall not be occupied until the vehicular access has been constructed in accordance with the plans hereby approved.

Reason: In the interests of highway safety and to ensure that the development is acceptable in terms of accessibility to comply with policy T26 of the saved adopted Torbay Local Plan (1995-2011).

06. The development shall not be used/occupied until the vehicle parking and turning areas shown on approved detailed plans have been provided and made available for use. These areas shall be so retained for these purposes unless otherwise agreed in writing by the Local Planning Authority.

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

07. Prior to the occupation of the residential units, hereby approved, detailed plans of 12 secure and covered cycle parking areas to serve the units shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking areas shall then be completed and made available for use prior to the occupation of the units and shall be so retained thereafter at all times to serve the development.

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 adopted Torbay Local Plan 1995-2011.

08. Prior to the commencement of the development details of the proposed design of the refuse and recycling storage areas to serve the dwellings shall be submitted to and approved in writing by the Local Planning Authority. The refuse and recycling storage areas shall be completed and made available for use prior to the occupation of any of the dwellings and shall be retained thereafter at all times to serve the development.

Reason: To ensure that there is a satisfactory refuse and recycling strategy for the residential development to protect the visual amenities of the area and the residential amenities of the neighbouring occupiers. In accordance with the objectives of policies W7, HS, H2, H9, BES and BE1 of the adopted Torbay Local Plan (1995-2011).

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

Reason: In the interests of the amenities of the area and to accord with policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

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

Reason: In the interest of the amenities of the area and in accordance with policies BES, BE1, BE2 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

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

Reason: In the interests of the amenities of the area and in accordance with policies BES, BE1, BE2 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

12. Prior to the commencement of the development a detailed tree protection plan (TPP) shall be submitted to and agreed in writing by the Local Planning Authority. The agreed TPP shall show how the existing tree to the front of the proposed building will be retained during construction. The TPP shall include a tree protection area and tree protection methodology with details of a no dig area and protective fencing to the relevant British Standard. The development shall then be carried out in strict accordance with the agreed TPP.

Reason: To ensure that the existing tree is adequately protected while development is in progress, in accordance with Policy L9 of the saved adopted Torbay Local Plan (1995-2011).

13. Prior to the commencement of the development, full details of the means of disposing of storm water shall be submitted to and agreed in writing with the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority the drainage scheme shall incorporate a sustainable urban drainage system such as a soakaway. Such system as may be approved shall be installed prior to the occupation of the development and the system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run-off and to accord with the requirements of Section 10 paragraphs 94 and 99-104 of the NPPF in respect of sustainable drainage.

Informative(s)

01. This application is accompanied by a Section 106 Legal Agreement.

Relevant Policies

- H2 New housing on unidentified sites
- H9 Layout, and design and community aspects
- H10 Housing densities
- CF6 Community infrastructure contributions
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- BE5 Policy in conservation areas
- T25 Car parking in new development
- T26 Access from development on to the highway

Agenda Item 13

Application Number

P/2012/0619

Site Address

110 Hookhills Road
Paignton
Devon
TQ4 7NT

Case Officer

Mr Adam Luscombe

Ward

Churston With Galmpton

Description

Remove porch, alterations to form enlarged tiled roof to cover porch and front of house; build pool/games room at rear in garden

Executive Summary / Key Outcomes

It is proposed to construct an outbuilding to cover the pool at the rear of the dwelling and to alter the porch to the front.

It is considered that the development will not have an adverse impact on the detached property, its setting or the wider characteristics of the area as well as not impacting, in a detrimental manner, on the amenity of neighbouring residential occupiers. The scale of the development is considered suitable for size of the garden and site in general.

This application revises a previously refused scheme on the site. That was for an extension to the rear. The proposal differs with a lower height and is detached from the dwelling.

Recommendation

Approval

Site Details

The site contains a two-storey detached property on a late 20th Century development. Attached to the side of the property is a converted garage now in use as habitable rooms and the property has been extended at the rear with further accommodation.

A footpath runs to the North of the property which provides access to the rear of this and the rear of properties in two terraces to the north of the site. There are further properties to the west which also back onto this site. To the east of the site there is a public open space with a footpath through to a larger open space.

Detailed Proposals

It is proposed to construct a detached outbuilding to the rear with a lean to roof over a single storey building running adjacent to the northern boundary. The

building will be a maximum of 2.7 metres high, reducing down to 1.8metres adjacent to the boundary. It will have a total length of 14.307 metres and a maximum width of 5.493 metres. A small decked courtyard will be maintained at the rear of the converted garage/utility space with access from the path. The extension is indicated to house the existing swimming pool.

Additionally it is also proposed to remove the existing and develop a new porch to the front of the property.

Summary Of Consultation Responses

No Comments Received

Summary Of Representations

At the time of writing, prior to the completion of the consultation period, five letters of objection have been received. The key issues raised are:

Amenity
Overall height
Loss of outlook/view
Noise
Proximity to other dwellings
Overlooking
Loss of light
Overdevelopment

These are re-produced at Page P.200.

Relevant Planning History

P/2011/1068 Remove porch, alterations to form enlarged tiled roof to cover porch and front of house; build pool/games room at rear in garden – REFUSAL 30.01.2012

P/2010/0237 Conversion of garage including roof space over, and downstairs bathroom to provide granny annexe on two floors (retrospective) – PERMITTED 10.05.2010

P/2007/1511 Extension To Rear – PERMITTED 21.12.2007

P/1984/0759 Shed And Greenhouse – PERMITTED 19.04.1984

Key Issues / Material Considerations

The key issues raised by the application concern the impact on the appearance and character of the property, the site, the streetscene and the surrounding area in general as well as the occupiers and users of the neighbouring properties and area.

With regards firstly to the porch alterations proposed at the front of the property this is not considered to raise any significant concern or to have any adverse impacts on either the character and appearance of the property or the residential amenity.

In considering the rear development, it is deemed that the proposal has addressed many of the concerns previously raised.

The development is now separated from the dwelling house which breaks up the scale and bulk of the overall development. Further more there is a reduction on both the overall height and especially the height adjacent to the fence. The overall length has also been reduced by approximately 3 metres.

Previously there was a concern for the scale of the development and how it would lead to overdevelopment. The separation from the existing dwelling and the reduction in size will mean that it is considered the works will not overdevelopment the site.

The proposed development, on other sites, would be considered Permitted Development. In this case there is a restriction on Permitted Development allowances on this and the entirety of the surrounding development and therefore it is subjected to the planning application. The restriction applies because of a condition on the original planning consent for the wider development as a whole. The reason given was to protect the appearance and amenities of the area.

The previous development was higher than the boundary fence and considered to be imposing on the access lane and to affect the outlook from the neighbouring properties. The revision to the plans reduce the height and therefore reduce the impact. The properties are approximately 12 metres away and the development would not lead to a loss of light to any of those neighbouring buildings. Furthermore the single storey design, behind the fence, would not contribute to any overlooking.

Principle and Planning Policy -

The development would not have any significant affect on the amenity of neighbouring occupiers and would not lead to overdevelopment of the site. Whilst it would develop a large proportion of the rear garden sufficient amenity space is maintained around the development to provide an adequate residential environment.

Conclusions

The proposed development is considered to accord with the policy, specifically as set out within the Saved Adopted Torbay Local Plan 1995-2011. For this reason the application is deemed acceptable and is therefore recommended for approval given that there are no adverse impacts of the development on the built environment setting or the residential amenity.

Condition(s)/Reason(s)

01. The proposed outbuilding as hereby approved shall not be used as habitable space and shall at all times remain ancillary to the use of the existing dwelling unless agreed otherwise by the Local Planning Authority.

Reason: To ensure that the proposed development does not harm the amenities of the area in accordance with policy H15 of the Saved Adopted Torbay Local Plan 1995-2011.

Relevant Policies