



Friday, 20 April 2012

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 30 April 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:

Anne Mulholland, Town Hall, Castle Circus, Torquay, TQ1 3DR
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 10 April 2012.

(Pages 1 - 2)

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/2011/0035/MPA - Former Royal Garage Site, 4-24 Torwood Street, Torquay**

(Pages 3 - 13)

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

6. **P/2011/0925/MR4 - Oldway Mansion Site And Fernham Nursing Home, Torquay Road, Paignton** (Pages 14 - 40)
Construction within grounds of Oldway Mansion to form 48 three and four bedroom townhouses. Construction of new orangery, wedding room and cafe. New 4 rink indoor bowling centre, reconfiguration of 6 hard surfaced tennis courts, alterations to access and works to provide new public parking and improvements to existing. Restoration of selected areas of historic landscape. Construction of 64 assisted living apartments on the site of Fernham Nursing Home. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.
7. **P/2011/0926/LB - Oldway Mansion Site And Fernham Nursing Home, Torquay Road, Paignton**
Construction of new orangery, wedding room and cafe, restoration of selected areas of historic landscape, works to listed wall to facilitate vehicular access. Demolition of existing indoor bowls centre. Works to existing car parking area. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.
8. **P/2011/1020/MR4 - Oldway Mansion, Torquay Road, Paignton**
Change of use of Oldway Mansion, Rotunda and stables from Council Offices to 57 bed hotel with ancillary spa, conference and banqueting facilities, external alterations, formation of entrance foyer to stables and restoration/refurbishment of existing glass conservatory structure. Demolition of squash courts. Improvements to car parking area. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.
9. **P/2011/1021/LB - Oldway Mansion, Torquay Road, Paignton**
Use of Oldway Mansion, Rotunda and Stables as a 57 bed hotel with ancillary spa, conference and banqueting facilities, internal and external alterations, formation of entrance foyer to stables, restoration/refurbishment of existing glass conservatory. Demolition of squash courts. Improvements to car parking area. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT.
10. **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.



Minutes of the Development Management Committee

10 April 2012

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Addis, Baldrey, Barnby, Brooksbank, Hill, Pentney and Ellery

630. Apologies for absence

It was reported that, in accordance with the wishes of the Independent Coalition Group, the membership of the Committee had been amended for this meeting by including Councillor Ellery instead of Councillor Morey.

631. Minutes

The Minutes of the meeting of the Development Management Committee held on 12 March 2012 were confirmed as a correct record and signed by the Chairman.

632. Urgent Items

The Committee considered a verbal update regarding application P/2012/0191/HA - 2 York Crescent, Torquay. Under Standing Order 1.5 (c) and Standing Order 12.4 the Senior Planning Officer recommended that this application be deferred so that all relevant considerations material to the decision may be taken into account. The Committee agreed to defer the application.

633. P/2012/0181/PA - Brampton Guesthouse, 11 Beach Road, Paignton

Consideration was deferred until the receipt of revised plans.

634. P/2011/1351/PA - Barton County Junior & Infant School, Barton Hill Road, Torquay

Prior to the meeting written representations were circulated to the Committee.

Resolved:

Approved subject to:

- (i) the condition and informative set out in the submitted report;
- (ii) the detail of additional pre-commencement conditions set out in the arboricultural report be delegated to the Executive Head of Spatial Planning.

635. P/2012/0017/PA - 1 Birds Haven, Avenue Road, Torquay

This application was withdrawn at the request of the Committee.

636. P/2012/0099/PA - 48 Torwood Street, Torquay

Prior to the meeting written representations were circulated to the Committee. At the meeting Mick Roberts addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) the removal of the word 'new' on the first line of condition 1 as set out in the submitted report
- (ii) the conditions and informative as set out in the submitted report with conditions 1 to 3 being pre-commencement.

637. P/2012/0191/HA - 2 York Crescent, Torquay

This application was deferred at the request of the Committee.

Chairman

Agenda Item 5

P/2011/0035/MPA

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

The planning application for 'Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access' referenced under P/2011/0035 was originally considered and approved by Members at their meeting on 8th April 2011. Members considered the matter again at their meeting on 11th December 2011, when it was approval was reaffirmed subject to:

- the completion of the Section 106 Agreement, on terms listed in the submitted Report, by 12 February 2012;and
- (ii) the imposition of the conditions and informative set out in the submitted Report.

The s106 Agreement has now been delivered, and the Decision Notice could be released. However under the terms as agreed by the Committee, the Executive Head of Spatial Planning no longer has delegated authority to do so as the time agreed by Members (12/02/2012) has passed.

Also, in drafting the decision notice the Executive Head of Spatial Planning has become aware that some of the conditions as originally approved were poorly drafted and others replicated their instructions. It is considered appropriate to amend the conditions so that they became clear, legal, implementable and defensible (in the event of any challenge). The context and intention of the conditions has not been altered and no new subject matter introduced. Members are asked to consider the new list of conditions (copy attached) and to agree that they can be attached to the formal Decision Notice.

The Executive Head of Spatial Planning therefore seeks authority from Members of the Development Management Committee

- (1) amend some of the conditions previously considered and approved by Members to improve, and
- (2) renewed authority from Members to issue the formal Decision Notice.

Conditions as originally approved:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a) A desk study identifying:

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

- b) A site investigation scheme based on a) above to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
- c) The results in the site investigation and risk assessment and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification report on completion of the works set out in c) above confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

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

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

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

10. Demolition or construction works that are likely to be audible in neighboring properties shall be carried out only during the following times:
08:00 – 18:00 hours Mondays to Fridays (excluding Bank Holidays)
08:00 – 13:00 hours Saturdays
All deliveries shall only occur during the above mentioned working hours.
No work of this nature is to be carried out on the site on Sundays or Bank Holidays.
In exceptional circumstances, where noisy works are believed to be necessary outside these hours, such works shall only take place on the following basis:
- prior approval for specified works must be obtained from Torbay Council's Environmental Health Team; and
 - Notification must be provided to those local residents that are likely to be affected, of the nature and duration of the works.

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

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

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

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

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

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

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

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

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

15. No development shall commence until a scheme for the off site highway works has been submitted to and approved in writing by the Local Planning Authority. These works shall include:

- Works to The Terrace of the type shown on drawing number 2239.03 A received on 18/01/11
- Works to Torwood Street of the type shown on drawing number 2239.02C received on 8/01/2011
- Details of the proposed hard landscaping of the type indicated on drawing number 3145-10 Revision 0.

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

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

16. Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved in writing by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can

continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

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

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

24. Prior to the commencement of the development hereby approved the results of an assessment into the impact on the existing upper level of masonry wall supporting The Terrace highway as a result of any material changes to the wall or its foundations, particularly in relation to the wall's ability to resist highway loadings during and after the construction phase of the development, shall be submitted to and approved in writing by the Local Planning Authority. The assessment will include details of how the section of original masonry wall will be protected and supported during the construction phase. Any strengthening works recommended in response to the assessment shall be agreed in writing by the Local Planning Authority and carried out in accordance with a timetable which shall also be agreed in writing.

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

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

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

Conditions as now proposed:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- b) A site investigation scheme based on a) above to provide information for an assessment of the risk to all receptors that may be affected, including those off site.
- c) The results in the site investigation and risk assessment and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.
- d) A verification report on completion of the works set out in c) above confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

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

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

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

10. Demolition or construction works that are likely to be audible in neighbouring properties shall be carried out only during the following times:
08:00 – 18:00 hours Mondays to Fridays (excluding Bank Holidays)
08:00 – 13:00 hours Saturdays
All deliveries shall only occur during the above mentioned working hours.
No work of this nature is to be carried out on the site on Sundays or Bank Holidays.
In exceptional circumstances, where noisy works are believed to be necessary outside these hours, such works shall only take place on the following basis:
- prior approval for specified works must be obtained from Torbay Council's Environmental Health Team; and
 - Notification must be provided to those local residents that are likely to be affected, of the nature and duration of the works.

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

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

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

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

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

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

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

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

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

15. No development shall commence until a scheme for the off site highway works has been submitted to and approved in writing by the Local Planning Authority. These works shall include:
- Works to The Terrace of the type shown on drawing number 2239.03 A received on 18/01/11
 - Works to Torwood Street of the type shown on drawing number 2239.02C received on 18/01/2011
 - Details of the proposed hard landscaping of the type indicated on drawing number 3145-210 Revision 0.

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

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

16. Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved in writing by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason: To ensure that the development does not result in the movement or partial failure of the rear wall and thereby to ensure that the function of the highway it retains can

continue, in accordance with policy TS and T26 of the Saved Torbay Local Plan 1995 – 2011.

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

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

24. Prior to the commencement of the development hereby approved the results of an assessment into the impact on the existing upper level of masonry wall supporting The Terrace highway as a result of any material changes to the wall or its foundations, particularly in relation to the wall's ability to resist highway loadings during and after the construction phase of the development, shall be submitted to and approved in writing by the Local Planning Authority. The assessment will include details of how the section of original masonry wall will be protected and supported during the construction phase. Any strengthening works recommended in response to the assessment shall be agreed in writing by the Local Planning Authority and carried out in accordance with a timetable which shall also be agreed in writing.

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

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

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

Agenda Item 6

Application Number

P/2011/0925

Site Address

Oldway Mansion Site And
Fernham Nursing Home
Torquay Road
Paignton
Devon
TQ3 2TE

Case Officer

Mrs Ruth Robinson

Ward

Preston

Description

Construction within grounds of Oldway Mansion to form 48 three and four bedroom townhouses. Construction of new orangery, wedding room and cafe. New 4 rink indoor bowling centre, reconfiguration of 6 hard surfaced tennis courts, alterations to access and works to provide new public parking and improvements to existing. Restoration of selected areas of historic landscape. Construction of 64 assisted living apartments on the site of Fernham Nursing Home. THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT

Executive Summary/Key Outcomes

This package of development is a much scaled down version of earlier schemes designed to secure the future of Oldway Mansion, [Grade II* listed] the Rotunda and Stables [Grade II listed] and its grounds, which is a Grade II Entry on the Register of Parks and Gardens.

The scheme comprises the change of use of the Mansion and Rotunda and Stables to a 57 bed hotel with spa, conference and banqueting facility. Significant investment is needed due to the condition of the Rotunda and particularly the Stables and the ongoing costs of maintaining the Mansion and the grounds. It is proposed to raise this through residential development within and adjacent to the historic park. This comprises 46 family homes on the site of the existing Indoor Bowling Club, [Zone A] on land adjacent to the Rotunda, [Zone C] and on land fronting Oldway Road, [Zone D]. The proposal also includes 57 Sheltered units on Fernham, a redundant former care home and includes new public car parking, a reduced number of re aligned tennis courts, the on site replacement of the Indoor Bowls Club and a new Orangery to provide a Wedding Room and café.

The historic gardens designed by Duchene are also to be restored.

Great care has to be exercised in considering the scale of development within

the grounds, which is needed to fund these improvements. This is due to the potential impact on the landscape character of the historic park. As such, English Heritage has indicated that their support for the proposals, is dependent on the tests for enabling development being met. The relevant test is that the development proposed is the minimum required to deliver the repair of all the Heritage assets on site, that it provides them with a sustainable viable future without being harmful to their significance and that it meets stringent testing of the applicant's financial case.

An Independent Viability Assessment (IVA) has been carried out and confirms that this level of development is indeed needed to fund restoration of the whole. Revisions to the scheme have also been negotiated to reduce the scale of tree loss and to better integrate the new development into the character of the park.

It is necessary, in determining the applications, to weigh the relative merits of the proposal against the impact on the character of the park. The benefits are securing a robust and sustainable future for this 'at risk' group of listed buildings and the restoration of their associated formal gardens. The proposed hotel use will not only secure the fabric of the buildings but will generate up to 70 local jobs and have significant spin offs in terms of the local economy and tourism. The restoration of the gardens, which are of significant historical interest being one of a few surviving Duchene landscapes, is also a major benefit and much valued by local people. The 'harm' which will to some degree be mitigated over time, is the loss of mature trees, some of which are important due to the sense of enclosure they give the park and the contribution they make to its character. The Garden History Society, the Devon Garden Trust and local amenity societies are supportive of the proposals notwithstanding this impact and clearly consider that the benefits of restoration outweigh some impact on the setting of the buildings. The documents submitted in support of the application evaluating the impact of the development on the Heritage Asset all suggest that the impact on the character of the park is an acceptable price to pay.

There has been little public objection to the scheme in this current form in contrast to significant public opposition to earlier proposals exposed to public comment. Whilst it is likely that there will be public concern once tree felling takes place, it is thought that the benefits that will accrue from the implementation of this scheme will be greater than the level of harm. In terms of priorities, securing the future of heritage assets takes precedence over concerns regarding a relatively minor encroachment of its setting and the recommendation is that permission should be granted.

Recommendation

Approval; subject to the additional plans and to the conditions detailed below.

Site Details

Oldway Mansion lies between the A379 Torquay Road to the east and Oldway Road to the west and about 400m from Paignton town centre. The current proposals involve the Mansion which is Grade II* listed, the Rotunda and Stables which are Grade II listed, the gardens which are a Grade II entry on the Registered List of Historic Park and Gardens and the redundant Fernham Day Centre which occupies a wooded enclave to the extreme north east of the site and which is located outside the listed gardens. Little Oldway which is located to the rear of the Mansion is Grade II listed but is not included in the current proposals.

The site has immense historical and architectural significance; it was home to Isaac Singer, an American and founder of the Singer Sewing Machine Company and built to a design by a local architect in the 1870's. The building, originally known as the Wigwam, was in a French style and faced in cream coloured terracotta bricks. The Rotunda and Stables were added later and used for the exercise of horses during the day and for entertaining at night. Isaac's son, Paris, carried out subsequent alterations to the Mansion, based on the Palace of Versailles and the Place de Concorde in Paris. He also commissioned extensive remodelling of the gardens which were laid out to an Italian theme by the French landscape architect Duchene, comprising contrasts between formal gardens, lawns and parterres with more naturalistic elements including woodland, lakes and a grotto. Key elements of this layout survive today.

The site is unique within Torbay for the concentration of listed buildings, listed artefacts and structures and for the surviving historic formal gardens. There are several elements of the formal gardens that are listed in their own right: the Courtyard Arch and screen walls, the Grotto, the lamp standard immediately west of the courtyard, the terrace walls, urns, statue and steps to the east and south east of the mansion, the walls, rustic seat steps and sphinxes to the south.

The gardens also contain many mature trees. Those to the boundary of the site are important in terms of views within and outside the park and provide a welcome sense of enclosure from the surrounding urban area. As a consequence it is much valued by residents for the buildings and the parkland setting alike.

The site is owned by Torbay Council and it currently provides Council office accommodation, a small museum to the Singer family, the registry office, a café, hard and grass tennis courts, indoor and outdoor bowling facilities. The site is costly to maintain: the Rotunda and particularly the stables are in an extremely poor condition and access to the latter is prohibited due to its condition.

In 2006 it was decided that a new use should be identified for Oldway that would generate investment in the buildings and the grounds. A Brief and Conservation Plan were drawn up to identify how that might be best achieved whilst ensuring that the heritage asset is protected and public access maintained. This identified

in broad terms that a hotel/spa use would fit well with the principal buildings on the site and that new housing would be needed to help fund it.

A joint venture has been entered into with the applicant, Akkeron who have entered a contract to deliver a scheme for hotel development subject to obtaining planning permission for a given scale of development on site. These applications are the culmination of that exercise and are much scaled down from earlier iterations of the scheme. Originally proposing 250 flats on the site to fund the restoration proposals, this scheme aims to deliver 103 dwellings with 46 family homes being located in the Historic Park and 57 sheltered units on the Fernham site. It also provides for the relocation of the Indoor Bowling Club and the retention of 6 hard surface tennis courts.

Whilst the proposal has been submitted as 4 separate applications, 2 planning applications and 2 sister listed building applications, for ease of consideration this report covers both the future use of the Mansion, Rotunda and Stable block and the development within the grounds.

Detailed Proposals

P/2011/0925: This comprises the construction of 48 [now 46] three and four bedroom townhouses. These are arranged as terraces and to a contemporary design. Zone A comprises 24 houses located in the area of the existing Indoor Bowls Club; Zone C now comprises 7 houses adjacent to the Rotunda, Zone D 15 Houses facing Oldway Road in the location of the maintenance yard. The submission includes the construction of 64 [now 57] sheltered units on the site of Fernham Day Centre. The new orangery, wedding room and café are to be built on the site of a former building adjacent to the Grotto. A new 4 rink indoor bowling centre is to be built on land adjacent to the existing tennis courts. The tennis courts are to be remodelled and realigned to facilitate new public car parking and 6 tennis courts are to remain. Restoration of the formal gardens and selected areas of historic landscape are included in the scheme. An area identified for new 'self build' on Torquay road has been deleted from the scheme due to the lack of supporting detail. A proposed new access from Oldway Road has also been deleted from the proposals due to the impact it had on trees.

P/2011/1020: This application comprises the change of use of the Mansion, Rotunda and Banqueting Hall from council offices to Hotel with ancillary spa, conference and banqueting facility. It includes external alterations, restoration of the existing glass conservatory, demolition of the existing squash courts and improvements to the existing car parking. The stables will have to be excluded from this application on a temporary basis pending mitigation, due to the use of the building by bats, currently hibernating in the roof space.

P/2011/1021: This is the listed building application in relation to the change of use to a hotel and spa.

P/2011/0926: This is the listed building application for development within the grounds and comprises works to construct the Orangery, works to the existing car park area between Oldway and the Rotunda and works to the listed boundary wall along Oldway Road.

The applications are accompanied by an Environmental Impact Statement, Design and Access Statements, a Heritage Statement, Impact assessments / Heritage Assessments for new build and conversion. A Tree survey, updated to a full Arboricultural Implications Study, Habitat Survey, Bat Roost Assessment and Remote Bat Detector Survey. In addition, the applications includes a Tree Survey for potential to support roosting bats, a Transport Assessment, an Umbrella Travel Plan, a Level 2 Flood Risk Assessment, Land Quality and Ground Conditions Assessment, an Energy statement and a Landscape strategy.

Summary Of Consultation Responses

English Heritage (EH): Recognise that discussions on the site have evolved over a considerable period of time. Although EH express concern about the potential of development to harm the significance of the Registered Park and Garden, however, due to the condition of the Rotunda and stables and the challenges in finding an alternative viable use for the Mansion they recognise that a case for enabling development may be able to be supported. EH support would be based on a thorough testing of the financial case to ensure that the level of development on the site is the minimum necessary to deliver the repair of the Historic Assets on the site and to provide them with a sustainable viable future.

On that proviso, their comments are as follows:

New Development within the Grounds

Consider Zone D Housing acceptable but have concerns about Zones A and C [located on the site of the existing indoor bowling club and adjacent to the Rotunda respectively], due to the potential impact on the character of the Park. EH suggest some mitigation might be achieved if screening/landscaping were introduced to the public spaces that front these new buildings and that they were managed communally rather than by individual owners. The use of natural materials for boundaries and careful consideration of facing materials for the new houses is critical. [These matters have been addressed in negotiations and revised plans and further views are awaited]

Oldway Mansion

Supportive of the proposals: would like the existing features of the buildings better represented. Consider the introduction of the dumb waiter to the first floor salon regrettable, but probably unavoidable and question the introduction of a service riser and suspended ceiling to the Ballroom. Require further details of this and insist on care in minimising loss of historic fabric.

Rotunda/Riding School

Welcome proposal. Raise detailed issues in relation to loss of stairs to towers, changes to the kennels, and loss of partitions/stairs to the Rotunda. Require further justification in relation to these matters. Require fireplaces in the Rotunda to be retained, more information in relation to kennels and retention of stable fixtures.

Orangery

No objection, but emphasise how important detailing and materials will be and interface between new building and existing landscape.

Bowling Centre

Whilst it would be better if this could be located off site, the location selected minimises the impact on the setting of the Mansion and the Registered Park and Garden.

Fernham

Expressed grave concerns about the original scheme on the site due primarily to the scale of tree loss and the effect this would have on views to and out of the park and the replacement of its 'soft edge' with one of a harder more urban character. Required detailed photomontages so that impact could be properly judged. [The Fernham scheme has subsequently been revised substantially and EH comments are awaited]

Tennis Courts

Consider that new surfacing and fencing requires careful handling and that impact of new car parking could be mitigated with bunds and soft landscaping.

They welcome restoration of garden features but require an agreed Management Plan for the entire site.

Garden History Society: Consider that the areas selected for development would only have a marginal impact on the setting of Oldway and are pleased that the current proposals relate more closely to the Planning Brief. They welcome the restoration of the historic landscape and request that a S106 agreement is concluded to ensure implementation and a long term management strategy.

Devon Gardens Trust: Welcomes the current proposals and requests a similar assurance that benefits are secured via a S106 agreement.

Natural England: Supporting information in relation to habitats confirmed that the site is important to bats as it contains buildings and trees suitable for roosting. The stables are an identified roost. However, neither the status of this roost, nor proper mitigation can be determined until emergent surveys are carried out between May and October. On the basis that the stables are excluded from

the application for a period to allow this work to take place, Natural England have withdrawn their original objection. The mechanism for excluding the Stables will be addressed within the main body of the report.

Devon Bat Group: No observations received but bat matters addressed as explained above.

Environment Agency: Raise no objection subject to the use of true sustainable drainage features being incorporated into the final surface water design scheme rather than an over reliance on hard engineering features. They suggest a condition should be applied to secure a SUDS system.

South West Water: Have concerns about the level of discharge of surface water to the existing public combined sewer. No increase in surface water discharge is likely to be acceptable due to localised flood risk. The site is relatively impermeable and does not lend itself to attenuation through SUDS. The drainage of the site is complex and requires a drainage survey to be carried out. Discussions are likely to be needed to agree attenuation rates although a solution looks achievable. A condition requiring a drainage survey and agreed attenuation rates is required.

Sports Council: Concerned at reduction in level of tennis courts from 8 to 6 courts and although not a formal consultee, would like to see some justification for this loss.

[This point is addressed in the body of the report]

Design Review Panel: The scheme has been considered on 4 occasions. The panel's comments have been significant in the evolution of the scheme and have helped identify areas for development that would have least impact on the setting of listed buildings and on the character of the park. The scheme as a whole was most recently considered on the 15th July 2011.

Whilst the conversion and future use of Oldway is supported the panel expressed concerns about the impact of the new housing on the character of the park and the setting of the listed buildings, considering that the extent of tree loss was not fully understood nor that the scheme reflected the 'language of the landscape'.

The specific areas of concern were the Zone C houses adjacent to the Rotunda, due to its relationship to the Mansion and its immediate setting and the consequent loss of trees which it was felt was unjustified. [This has been amended following negotiation as will be explained in the body of the report] Zone A housing was thought to be acceptable and could possibly be extended.

In consideration of the Orangery, the need for plentiful, accessible car parking and vehicular access was highlighted. The extension to the parterre created by the roof to the Orangery was thought to be an attractive and appropriate

proposal.

The Indoor Bowling Club was not liked due to its size and location and the attempts to camouflage were not considered successful.

A landscape strategy and energy strategy were highlighted as areas requiring attention.

In respect of the development of Fernham, a revised scheme was considered at the panel meeting of the 2nd of February but thought to be less than convincing. The design has since been further amended in an attempt to meet concerns. The changes, where applicable, will be picked up in the main body of the report.

Highways: Pedestrian refuge to be provided to main access road along with a raised shared use path under a S278 Notice. Turning area to be provided at head of Manor Crescent.

Specifically, the provision for on site coach turning is considered unsatisfactory, sustainable travel access to the site needed, and cycle parking required. A need for off site 'sustainable' infrastructure contributions identified: £50,000 cycle links to sea front and town centre, £6000 for bus shelter on Oldway Road, £5000 for removal of parking restrictions on Oldway Road, £5000 for improving pedestrian route to Oldway school. [As will be explained in the body of the report there is insufficient profit arising from the development to fund these requirements]

Arboricultural Officer: Initial concerns in relation to the scale of tree loss have been mitigated to some degree by ongoing discussions and modifications to the scheme to retain a number of key trees that were previously to be felled. Consider that the relationship between the strategic needs of the estate and tree retention needs to be balanced. This matter will be dealt with in the main body of the report.

Method Statements are required in relation to key tree works and particularly the use of old carriageway as a vehicular route for wedding traffic.

Environmental Health: Have no objection but have made detailed comments in relation to land contamination, design of pools and noise. These can be picked up as conditions.

Torbay Development Agency: Fully support the proposals.

Summary Of Representations

The Friends Of Oldway wish to address the Committee directly and will circulate a letter to Members.

Louisa Hutton, Great granddaughter to Paris Singer and practising Architect has

written in offering her full support to the current scheme. Her 'grave concerns' about the future of the site and the scale of development initially promoted as a rescue package have been overcome by the recent changes to the scheme. These will, in her opinion, not only preserve but enhance the site.

Mr Melvyn Newberry, whilst supporting the use of the Mansion as a hotel would like to find an alternative funding package to the construction of housing on the site, due to concerns about the impact on its character. An alternative proposal based on developing a Trust to achieve grant aid has been suggested.

Comments from the public were relatively few. Some expressed concern at the impact of building within the historic park and the diminished public use of Oldway, others thought that the benefits of the proposal outweighed the costs.

Specific concerns about Bats in Fernham have been addressed. The building has now been surveyed and secured and has been shown to not accommodate bats.

One letter raised the need for regulation of the vehicular access to the Orangery, particularly during the school run. Would like to see more use of the Memorial Garden for play/seating and considers that reduction in parking within the estate will worsen traffic problems/congestion in Higher Polsham Road. These comments have all been on deposit in the Members Rooms.

Relevant Planning History

Brief and Conservation Plan produced in 2007. Although several schemes have been circulated since, these are the first formal applications.

Members attended a site visit to consider the impact of the proposals on the 7th March 2012.

Key Issues/Material Considerations

Background

It has long been recognised that the condition of the Rotunda and the Stables and the costs of maintaining the Mansion and its grounds required a significant investment to be made if the site was to be rescued from its decline. The Council does not have the resources to do this and so it was necessary to consider other ways of securing the long term future of the buildings and grounds. Continuing public access and a protection of the heritage asset were identified as key principles and a Brief and Conservation Plan were commissioned to identify how restoration could best be achieved. In broad terms this sought to develop a partnership with a private developer to restore the site and suggested possible new 'enabling development' on previously developed parts of the gardens to fund the works. It suggested the following options:

1. Redevelopment of Fernham for residential development.

2. Use of Oldway Mansion as a hotel/conference centre.
3. Use of stable block for other suitable uses.
4. Demolition of maintenance yard for residential development.
5. Redevelopment of the indoor bowls centre for residential purposes.

The importance of complying with English Heritages enabling development criteria was highlighted in this document.

There have been several options put forward since 2007 which have been considered by stakeholders, the local community and more formal bodies. Initial proposals provided for 250 flats in a U shape on the grass tennis courts and on the outdoor bowling green. This was unpopular due to the impact on the setting of the Mansion, its impact on the grounds and on the bowls club and the lack of family homes.

In 2010, this was amended to provide for family homes but spread across the site to include the tennis courts. The inclusion of homes on the tennis courts was not favoured and the Indoor Bowls Club decided it wanted to remain on site rather than be relocated.

These concerns were reflected in a revised scheme which is now submitted for formal determination.

These applications can be broadly broken into 2 areas:

1. The restoration, conversion and reuse of the Mansion, rotunda, stable block and banqueting hall for a hotel development and restoration of key elements of the historic formal gardens, and;
2. Construction of new housing within and adjacent to the Historic Park to fund it along with consequent relocation of the indoor bowling club, wedding room and café and new public car parking.

It is necessary to assess these proposals against National and Local Plan policies and against English Heritage's criteria for enabling development given that their agreement to the proposals are predicated on the guidance and particularly the financial testing being met.

Planning Policy and Principle

The National Planning Policy Framework replaces previous strategic guidance. It promotes sustainable development, emphasises the need for economic growth, supports the delivery of good quality family homes, and in terms of the historic environment requires the protection of heritage assets. It does, however, allow for proposals to proceed if there is not 'significant harm' providing there is public benefit.

The most relevant Local Plan Policies relate to the need to protect the future of

the listed buildings, the character of the Historic Park and the overall quality of design.

Policy BE6 requires development to have 'special regard to the desirability of preserving any listed building, its setting, or any features of special architectural interest which it possesses'. Policy BE7 encourages new uses for listed buildings where this would help preserve the historic fabric. BE8 states that any development which would have an adverse effect on the character and setting of a park or garden included in the National Register will not be permitted.

'Enabling Development and the Conservation of Significant Assets' was published in 2008 and defines enabling development as 'that which would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out and which could not otherwise be achieved'.

In summary, the criteria requires enabling schemes to; not materially harm the asset, to avoid detrimental fragmentation, to secure the long term future of the place and its continued use for a sympathetic purpose, be necessary to resolve the inherent needs of the place rather than the circumstances of the owner, be unable to attract subsidy from any other source, be the minimum necessary to secure the future of the site, be of a form that minimises harm to other public interests and display benefits that decisively outweigh the dis-benefits of breaching other public policies.

The benefits are paid for by the value added to the land as a result of the granting of permission, so enabling development is in effect a type of public subsidy. Thus unlike most planning applications, financial issues and rigorous testing are central to determination. Development which secures the future of an asset but complies with national and local planning policy is not enabling development as it would wholly comply with relevant guidance and advice.

In considering this application it is therefore helpful to understand to what extent the proposals are 'enabling' and to understand the financial case supporting them.

The advice in respect of enabling development confirms that a proper understanding of the asset is fundamental. A Brief and Conservation Plan initially informed the debate about development opportunities and this base line information has since been supplemented by further reports which analysed the heritage significance of the grounds and identified a number of 'Character Zones' across the site. These were then allocated a level of significance from high to negative. Following on from this, an evaluation of the qualities of the site led to the evolution of a design strategy that sought to reinforce the principle axes of the site and to develop a building language that reflected some of the formal 'grain' emanating from the Duchene landscape.

Documents submitted in support of the application detail the impact of development on the qualities of this asset. These comprise a Statement of Significance and Impact Assessment and an Impact Assessment/Heritage justification. An EIA was determined to be needed due to the heritage value of the site and this evaluates the effect of development on the heritage asset.

The areas of high significance, the Mansion complex and its associated formal gardens, the grotto gardens and the lawns are where restoration is concentrated. The areas of 'negative or neutral significance' are the areas where development is proposed, i.e. the site of the indoor bowling club, Fernham and around the maintenance yard facing Oldway Road.

In principle, the most sensitive parts of the site are targeted for restoration and those parts of the site which contribute least are identified as the most suitable for new development. It is now necessary to look at the detail of what is proposed and to evaluate whether the impact on the heritage asset is acceptable. In very simple terms it is necessary to decide whether the benefits of the proposal, i.e. the rescue of the complex of buildings and restoration of key elements of the formal gardens are significant enough to outweigh the impact of pockets of new housing within the grounds on the character of the historic park. The key elements of the scheme will now be discussed with respect to their benefits/disbenefits.

The restoration, conversion and reuse of the Mansion, rotunda, stable block and Banqueting hall as a hotel complex and restoration of key elements of the historic formal gardens

The use of the Mansion, Rotunda and stables as a 'top end' 4 star destination hotel with spa, banqueting and conference facilities is very welcome. The Mansion will provide 35 guest rooms on the ground, second and third floors. The ground floor would also contain the main reception area and the back of house uses including the kitchens. The first floor would be used for functions, restaurants and bars. This facilitates an extensive programme of restoration to the internal spaces of the Mansion and improvements to the external fabric of the buildings. It will see fire escapes removed, lost features reinstated and a comprehensive programme of refurbishment. It is a use that can be accommodated with minimal impact on the character of the building and will allow rooms that have been much carved up to be restored to their original form and character. More of the principal Mansion rooms will be accessible to the public than is currently the case as they will be in use as restaurants and bars. This important part of the scheme is seen as a significant positive benefit.

The Rotunda, Stables and Banqueting Hall will be converted to provide additional hotel rooms, function rooms, spa and treatment facilities which will be available to paying customers. The ground floor of the Rotunda is to contain a reception lobby and a spa. The first floor will be used for guest rooms accessed from a

balcony which will be a contemporary interpretation of an original feature which has long since been removed. The marble horse pool, currently covered over at the centre of the Rotunda will form the centre piece to the spa use and the building lends itself well to this use. The Banqueting Hall and conservatory, which is currently a ruin, are to be restored to provide flexible function spaces and the Stables, below the Banqueting Hall is to be converted to guest suites opening onto a refurbished private courtyard. The two towers would be converted to provide additional guest suites.

As well as a comprehensive restoration of these buildings, the ugly squash courts attached to the north east elevation of the stables will be removed and the original elevation reinstated.

There are key areas where additional information is needed but if these details can be resolved this scheme will secure a viable and sustainable future for this important complex of buildings. It is considered that these matters of detail can be secured by condition.

The stables, due to their identification as a roost for Lesser Horseshoe bats will have to be omitted from the applications on a temporary basis to allow emergent surveys to be carried out to identify the status of the roost and to inform adequate mitigation. This will provide an opportunity to satisfy English Heritages concerns about internal modifications to this part of the building. It is proposed to secure its re inclusion to the scheme via a Grampian condition. This will enable works, if the applications are approved, to continue to an agreed point but to prohibit say occupation of the hotel or new dwellings until the stables are fully surveyed, bat mitigation resolved, and planning permission and listed building consent have been granted for the works. The timing of this can be included in a phasing plan for the site which will be needed as a matter of course. Revised plans will be needed to define exactly the extent of building to be excluded and may require some advice from Natural England.

In addition to the restoration of the buildings is the reinstatement of the historic gardens which is welcome. The key elements of the original design, the formal lawns, parterres, and pollarded lime avenue represent some of the main features of the Duchene landscape and are largely intact. Proposals include restoration of these along with works to secure the future of the listed Grotto, Rockery and Pinetum which is over-mature and threatening the stability of the grotto.

It is proposed to introduce key tree planting along the main access to create a more formal and appropriate approach to the Mansion. The original gates are in store and are to be restored and replaced. The original drive to the Mansion is to be upgraded to provide vehicular access to the new wedding room, however, this requires care due to the size and maturity of the sweet chestnut trees that line the route. The existing car park area between the Mansion and the Rotunda is to be upgraded to create a quality transition space and to secure a better

appreciation of the view from the triumphal arch to the sea. Additional detail is needed in respect of this.

A Landscape Strategy has been submitted to ensure a consistent approach to the treatment of the overall site, to seek appropriate replacement planting and to screen/mitigate new development within the grounds. Tentative planting plans have been submitted which do require some refinement and the applicant hopes to flesh these out in conjunction with local groups who have a good understanding of the evolution of the historic landscape. This needs to be secured by condition and to be included in the phasing agreement.

Subject to detail it is considered that this represents a beneficial and sustainable use for these buildings and its associated gardens.

Construction of new housing within and adjacent to the Historic Park to fund it along with consequent relocation of indoor bowling, car parking, wedding room and café

In order to achieve what is demonstrated to be a very positive future for the main buildings on the site and the formal gardens, a means of paying for those works has to be identified. The site is immensely sensitive and great care has to be exercised in considering the scale of development being proposed to ensure that the landscape character of the wider parkland setting is not unduly compromised.

In assessing these elements it is necessary to consider to what degree the character of the park is changed, whether this is harmful, whether opportunities exist to minimise that impact, whether it is necessary and what mechanism exists to ensure delivery of the benefits if it is demonstrated that this is sufficient to warrant approval.

In order to understand the need for this level of development, rigorous financial testing has been applied to the information submitted by the applicants to ensure that what is being proposed is the minimum necessary to secure the future of the heritage asset. The result of this work has been to demonstrate that the works are indeed the minimum required to deliver the financial package that will restore the main buildings on the site.

The following development is proposed within or adjacent to the historic park. Each will be explained in terms of the impact that it has, the need for it and the negotiations that have taken place to mitigate this.

46 Family Homes, in Zones A, [Site of Indoor Bowling Club] Zones C and D [land adjacent to the Rotunda and land facing Oldway Road and site of Maintenance Yard]

The new housing proposed within the historic park itself comprises 2 distinct

parcels.

Zone A is on the site of the existing Indoor Bowls Club which sits on an elevated plateau immediately to the north of the main entrance to the site. This is a rather ugly brown brick building whose only virtue is that it is well screened by existing vegetation. It is assigned a 'negative' level of significance in the heritage assessment. The new housing comprises 24 4-bed houses in 2 parallel terraces in a north south orientation reflecting the overriding north-south grain of the site and the primary axes and garden alignment picked up in the design principles for the site. This creates dual fronted terraces one facing inwards to an internal courtyard and the other outwards addressing the wider site.

The buildings are of a contemporary design, and are two stories plus an asymmetrical mansard roof. The materials are standing seam zinc roof, 'warm' brick facades with cedar cladding. Car parking for up to 2 cars per dwelling is located in the courtyard.

The terraces and their associated service, parking and amenity spaces occupy a significantly greater footprint than the bowling club and will be taller. Thus they will be far more prominent than the existing building. The extended footprint results in a significant loss of primarily boundary planting/trees which are prominent within and from outside the site. Whilst the loss of this planting is regretted, the majority of the trees to be felled are not individually of merit and are mainly self seeded. One of the trees, a large Lime, is of a high amenity value but due to its location it is not possible to develop the site and retain the tree.

A retaining structure will need to be constructed along the boundary with Pegasus Court to allow the provision of garden space. Access to the site is via a driveway at a gradient of 1:10 that rises from the main drive. More information is needed in relation to the detailed appearance of these elements.

Whilst the design and location of the housing has been generally well received, quality boundary treatment is critical due to the relationship with the park. Improved landscaping along the boundary with the Outdoor Bowling Club could assist in assimilating this more sympathetically with the character of the park.

Zone C and D

Zone C Housing is perhaps the most controversial of the new housing within the historic park. The site is located adjacent to the Rotunda on land formerly part of a grass tennis court and is assigned a 'neutral' level of significance in the heritage assessment. The layout of the housing has been through a whole range of iterations in an attempt to find a form for the terrace that would sit comfortably in this very sensitive location adjacent to the Rotunda and to the Mansion itself. As submitted, it comprises 2 groups of 6 and 3 dwellings with the latter group set at a 45 degree angle 1:1 car parking is provided to the rear. The design and appearance of the terrace is similar to Zone A housing except for the roof which

adopts a recessed rather than the mansard form.

This terrace, in conjunction with housing proposed for Zone D, would have led to the loss of virtually every tree in this part of the site. Members on their recent site visit considered that this was unacceptable. The scale of tree loss is in part due to a new access road that was to be built to replace the existing meandering vehicular access from Oldway Road. This was proposed to extend the amount of developable space at road level and to facilitate rear servicing of Zones C and D. It also enabled the existing estate road that bordered the Outdoor Bowling Club to be incorporated into the developable area for Zone C.

In response to these concerns, the scheme has been amended to delete the new access road and instead zones C and D are serviced from the existing estate road. This has reduced the number of dwellings in Zone C from 9 to 7 and allowed them to be pulled back slightly from the Mansion and the Rotunda. The retention of the trees adjacent to the Rotunda provides important screening and softening and helps overcome the concern about the relationship of this terrace to the setting of the Mansion.

Detailed plans illustrating the new layout are awaited, but it is anticipated that the reduction in footprint coupled with retention of trees will result in a form of development that will sit more comfortable in this location than that which was previously proposed.

Again, it is critical that the interface with the park is properly considered if the impact of this terrace is to be mitigated. Advice from English Heritage about the need for screening outside the curtilage of the domestic properties that acts in a way to restore a sense of enclosure to the park, and is managed communally, needs to be taken on board.

Zone D Housing comprises 15 4-bed family houses in 5 groups of 3 connected houses. It occupies a wooded area of the park that borders Oldway Road including and stretching beyond the site of the existing maintenance yard. Existing residential properties are found opposite and to the north of the site. It is assigned a negative level of significance in the Heritage assessment. Due to the pre-existing levels, 2 groups of 3 dwellings occupy a position at road level and are serviced from Oldway Road and the rest are set at a higher level and are serviced from the existing estate road as described above. The houses are to a similar design to those in Zones A and C, comprising 2 stories plus an asymmetrical mansard.

Housing in this location is regarded as having minimal impact on the character of the historic park as it will be absorbed into the existing urban character of Oldway Road, although it will figure in views south along the road towards the Rotunda. Its construction will lead to a significant loss of trees. Some of the trees have been identified as having health and structural problems but a few are of high amenity value. A band of conifers that sit atop the retaining wall to the

maintenance yard will be felled. However their future could not assured as they are having an impact on the stability of the wall.

Overall, the location and type of development proposed in Zone D is considered acceptable. Although the loss of trees in the Zone C and D area remains regrettable, more trees are retained with the revised scheme and it is considered that the benefits that this necessary development brings to the restoration of the mansion and grounds outweigh the harm caused by the loss of these trees.

New Indoor Bowling Club on land to the south of the Hippodrome

It is proposed to site this structure to the south of the tennis courts in an area assigned a 'neutral' level of significance in the Heritage assessment.

Much care has been taken to identify a location and design that will be as unobtrusive as possible. The site is tucked behind trees and will be partly set down from the new level of the tennis courts. The functional requirements demand a building of a given size, form and appearance. It is single storey, will be about 6m in height and is clad in cedar with a grassed roof. Its construction will require the existing side sandstone boundary walls to be rebuilt, which will result in the loss of a couple of trees. It is not thought that this will have a significant impact on the character of the park as it is well wooded in this location.

New Orangery on site of pre-existing building to accommodate a new wedding room and café

This site, within the rockery gardens, is assigned a medium level of sensitivity in the Heritage assessment. There is evidence of an pre-existing Orangery building adjacent to the Grotto which was demolished in 1958. This application involves rebuilding this, but in a more contemporary form. It is a single storey structure and the roof will form part of the extension of the Parterre and reinstatement of the original viewing platform.

There are 2 issues of concern again in relation to trees. Firstly, that the new lift and kiosk are built in accordance with a Method Statement to ensure that a key pine tree is not lost and that the works to 'improve' the vehicular access, which is along the original drive, are done in a way that does not damage important trees along the route.

Issues raised by the DRP in terms of general accessibility for wedding parties needs to be assessed as does management of the route for vehicles. Details of construction and materials will be subject to a condition.

Realigned Tennis courts to provide 6 hard surface courts, new public car parking

The re-alignment of the tennis courts is necessary to provide sufficient space to introduce the replacement public car parking which will be tucked up against the trees on the historic eastern bund. The tennis courts will encroach slightly onto

the lawn fronting the Mansion but does not present any particular issues providing the 'edges' are sensitively handled. It is important that the works are carried out in such a way that will ensure the retention of key trees adjacent to the car park access and this will require a Method statement. It is also important that the remodelling is fully detailed to ensure a sympathetic approach.

57 Sheltered flats on Fernham

This site, which contains a redundant care home/day centre, is not included within the Registered Park. It is however important in that it forms a setting to the park and does contain a significant number of trees which form an important buffer between the park and the urban area beyond. In the original submission, this scheme comprised 64 extra care flats in a T-shaped block which extended across the whole of this wooded enclave. This was considered wholly unacceptable due to its impact on the setting to the park and the resultant loss of trees, is the scheme highlighted in the comments from English Heritage.

A revised scheme was put forward which retained more of the trees but it did involve a taller building of up to 6 stories on a more restricted footprint. This did not find favour with the DRP who considered it to be poorly conceived and damaging to the setting of the historic park as it would be visible from key vantage points within the park. This scheme was re-advertised and neighbours notified but no responses were received.

It has since been amended again to refine the design approach and to try to achieve a more suitable form and design. This is currently being re-advertised and awaiting responses from statutory consultees.

The scheme now proposed contains 57 sheltered units on 5/6 floors. It is located broadly on the footprint of the existing day centre, which reduces the impact on trees. It comprises a plinth with 3 stories and accommodation in a recessed roof which should be a fairly subservient element of the architecture. It has adopted a more horizontal emphasis with glazed balconies to try and reduce the perceived mass of the building. The landscape treatment and use of footpaths through the site is more sympathetic than in earlier versions although trees at the entrance to the site are to be lost to provide car parking and servicing. The existing trees, whilst offering valuable screening would be difficult to retain in a redevelopment scheme due to their position close to the access. However, there are opportunities for landscaping and softening which need to be taken on board.

The broad components of the scheme are moving towards a more acceptable architectural solution for the site, but more detail is required along with a greater understanding of its relationship to the historic park. It is hoped to have greater clarity by the committee date and progress will be reported verbally. Comments from English Heritage are also needed and it is hoped that these too will be available by the Committee date, as this was the part of the site that caused them particular concern.

To what extent is the proposed development to be considered enabling?

It is important to consider to what degree these proposals constitute enabling development. Policy BE8 of the saved Torbay Local Plan prohibits development that would have an adverse effect on the character and setting of a Registered Park. Development within the Historic Park is sensitive and likely to generate public concern when implemented. Whilst significant care has been exercised in developing these proposals, there will inevitably be an impact on the character of the park through the incursion of domestic activity into what is a public space and through the loss of trees, which is significant. Whilst a similar number of trees are to be planted as will be lost, around 150, some of the trees to be lost are mature and significant as they border the park giving it a soft edge and sense of enclosure which contributes significantly to its setting and its value as a quiet refuge in an otherwise busy urban area.

A guiding principle in the 2007 Brief and the Conservation Plan has been to accommodate new development within previously developed parts of the site in order to minimise any impact on this setting and character. Whilst the current scheme adopts this as an approach, building pockets extend beyond the constrained areas originally identified and there is some impact on the setting to the north and north-west boundary of the park through tree loss. The relocation of the indoor bowling club, whilst not ideal, is mitigated and does represent the best available solution.

Recent revisions to the scheme have centred on mitigating this impact through retaining as many trees as possible. Sensitive treatment of the edges of the pockets of housing through landscaping and screening outside the domestic curtilage will reintroduce some softening and a sense of enclosure to the character of the park.

It is then a question of whether the scale of enabling development is necessary and justified.

Is the scale of development acceptable and justified?

Whilst it would be preferable that new building be more limited within the historic park, this development is only being considered in order to fund the restoration of the buildings and formal gardens. It is therefore critical to demonstrate that the scale of development within the grounds is absolutely vital to deliver the restoration of the whole. English Heritage have made it clear that they expect this to comply with their enabling development criteria. This means that it must be shown that this is the minimum scale of development needed to secure the future of the Heritage asset. An Independent Viability Assessment has been commissioned which critically examines the costs and values put forward by the developer. It has undergone sensitivity testing to ensure that what is being claimed is needed to restore Oldway and the formal gardens is indeed necessary. The business case for a hotel operation has also been critiqued to

ensure that this represents a sustainable future for the buildings.

The guidance indicates that the market value of an asset is its final value minus the costs that would be incurred in carrying out the development. If the costs exceed value, then there is a conservation deficit and it is this shortfall which needs to be made up by the enabling development.

The IVA does not include an allowance for a capital receipt and even on this basis; the costs of development are barely met by the anticipated return. If there was any surplus profit identified, that should be used to negotiate a reduction in the development where it is judged to have the most harmful impact on the historic park. It does not appear that in the current market this is an option. The advice does make it clear that market conditions are relevant in considering the scale of development and viability. In a more buoyant market, less is needed to deliver the funding level required. However, this needs to be balanced against the deterioration of the asset and it is the case that the stables, particularly, have become seriously unsound and further delay could increase costs and the likelihood of the loss of key features substantially.

The criteria also suggest that as the enabling development is in effect a public subsidy, the level of community support for the proposals is a material matter. It is evident from the responses to the applications that the delivery of the buildings and formal gardens is welcomed and is seen as a priority. The IVA needs to be considered by English Heritage and it is anticipated that their comments will be available by the Committee date.

This assessment was also needed to demonstrate that the development does not have the capacity to deliver any highway improvements, affordable housing or SPD Community Infrastructure.

In terms of compliance with the NPPF and English Heritage's enabling development tests, the key question is whether the benefits of the overall scheme outweigh the costs. The new use for the complex of 'at risk' buildings is ideal. It is compatible with the original form of the buildings and, subject to a delivery mechanism being agreed, will secure the future of these buildings, create new jobs and assist in the promotion of tourism in an area where this sort of kick start to regeneration is needed. It delivers restoration of a planned historic garden that is much valued by local people. It delivers well designed family homes in an attractive location. It thus delivers a robust and sustainable future for the majority of the asset. The scale of development needed to pay for this is proven to be essential through detailed and rigorous appraisal of the financial case. There have been significant improvements to the scheme to maximise retention of the tree cover and to ensure replacement planting where appropriate.

The impact of tree loss and the erosion of the landscape edge to the park has

been lessened through negotiation and will be primarily short term as the replacement planting becomes established. It is also the case that the buildings are deteriorating, require a significant injection of funds and if this is not forthcoming within a short time period could lead to the Council being penalised through denied grant assistance.

Key in the advice in relation to enabling development is that the benefits of the scheme are realised, that the quality is assured and that the long term future is secured through appropriate management strategies. There is a need to agree detailed matters in relation to the refurbishment of the listed buildings, restoration of the gardens, design of the new buildings, trees and landscaping and a mechanism for the detailed implementation of the scheme and a timetable for its delivery.

It is a requirement of the contract that a detailed programme for each specific development site is agreed before works commence. It is important that this reflects the detailed planning needs of the site and as such more discussions are needed to ensure that the contractual arrangements and the planning requirements mesh.

Reduction in Tennis Provision

The existing tennis courts are to be realigned in order to accommodate replacement public car parking and are reduced in number from 8 to 6. Grass tennis courts, which are disused, will be lost to development. The current coach who runs a business from these courts considers this level inadequate to support his business. The Sports Council, while not a statutory consultee, asked for some justification for this scaling back. However, this area of Paignton is well provided for in terms of tennis courts and so a small reduction in provision is not considered a matter of concern. Confirmation of this position will be supplied to the meeting.

Public access

It is vital that public access is secured to the grounds and to the facilities within the restored buildings in perpetuity. It is proposed to deal with this as a condition.

Flood risk

The development within the grounds will increase the level of surface water run off which should be mitigated by sustainable urban drainage systems. Due to the impermeable nature of the ground this appears to present difficulties. A drainage survey needs to be carried out to identify the best way to attenuate surface water flows so that the discharge to the public sewer is no greater than at present. The Environment Agency has indicated that this should be possible through a condition being imposed on the consent.

Bats

The stables have been shown to be a bat roost but the status of this and

consequent mitigation cannot be established without emergent surveys being carried out over the summer months. It is proposed to withdraw the stables from the current application but to require, through a Grampian condition, a trigger for its re-inclusion. This requires further discussion in order to ensure that it complies with the terms of the development agreement.

Self Build Area Torquay Road

This area has been included as a red line area only with no supporting details in respect of the capacity of the site to accommodate 'dwellings'. The impact on the historic bund and its trees is unknown and for that reason it is proposed to delete this from the application with the applicant's agreement.

Highways

The request by Highways for the scheme to deliver sustainable transport mitigation has been shown to be unviable. Cycle parking is provided. The provision of a turning circle within Fernham will be addressed as part of the new layout on the site. The pedestrian refuge can be secured by condition as can the management of the route to be used by wedding vehicles.

Economy -

Around 70 new jobs are to be created, the value of the investment amounts to around £12 million. A high end tourist destination would achieve significant regeneration benefits and kick start the local tourism economy.

Closing the gap -

It would introduce significant, prestigious investment in a part of the town that often misses out and would encourage confidence in the local community.

Climate change -

An Energy Strategy has been submitted which will seek to encourage sustainability, energy efficiency and reduce long term running costs.

Environmental Enhancement -

Significant benefits to at risk listed buildings/listed gardens new landscaping to be provided, some tree loss.

Accessibility -

Highways, access, parking, cycle parking, legibility, pedestrian access, local services etc.

Vibrant Town Centres -

400m from town centre, will generate spin offs in the local economy and help achieve regeneration.

S106/CIL -

There will be no S106 Agreement in relation to affordable housing or SPD

community infrastructure on the basis of viability.

Conclusions

There is a decision to be made about the relative merits of the proposal weighed against the impact on the character of the park. It is considered that the tests in relation to enabling development are met although this needs to be confirmed by English Heritage. Recent policy guidance in the NPPF indicates that where a development proposal will lead to a less than substantial harm to the significance of a heritage asset that harm should be weighed against the public benefit of that proposal including securing its optimal viable use.

The benefits are securing a robust and sustainable future for this 'at risk' group of listed buildings and the restoration of their associated formal gardens. It is a use that will not only secure the fabric of the buildings but will generate up to 70 local jobs and have significant spin offs in terms of the local economy and tourism. The restoration of the gardens, which are of significant historical interest being one of a few surviving Duchene landscapes is a major benefit and much valued by local people. The 'harm' which will to some degree be mitigated over time, is the loss of mature trees, some of which are important due to the sense of enclosure they give the park and the contribution they make to its character.

The Garden History Society, the Devon Garden Trust and local amenity societies are supportive of the proposals notwithstanding this impact and clearly consider that the benefits of restoration outweigh some impact on the setting. The documents submitted in support of the application evaluating the impact of the development on the Heritage Asset all suggest that the limited impact on the character of the park is an acceptable price to pay.

Negotiations on the site have sought to reduce the scale of tree loss and modifications to Zone C and to Fernham have resulted in a significant number of trees being retained.

It has been shown through a robust financial appraisal that this scale of development is the minimum necessary to rescue the building and grounds and that the state of the rotunda and stables requires action to be taken quickly if the slide to further deterioration is to be halted. English Heritage, a key consultee, have indicated that they would support the scheme if it was demonstrated to meet the tests for enabling development.

There has been little public objection to the scheme in this current form in contrast to significant public opposition to earlier proposals exposed to public comment. Whilst it is likely that there will be public concern once felling takes place, it is thought that the benefits that will accrue from the implementation of this scheme will be greater than the level of harm. In terms of priorities, securing the future of heritage assets takes precedence over concerns regarding a relatively minor encroachment of its setting and the recommendation is that

planning permission and listed building consent should be granted.

The restoration of the buildings, historic gardens and wider grounds needs to be guaranteed, it needs to be carried out quickly and to a high standard if the final 'enabling' test is to be achieved. This requires the submission of a phasing plan with appropriate triggers and a clear timetable for implementation along with the relevant additional information in terms of the quality of the restoration package. The detail of this does require some further discussion to ensure that the planning and listed building requirements of the site are met in a way that does not conflict with the terms of the development agreement.

The recommendations in relation to each of the applications are as follows:

1. Application No: P/2011/0925/MR4: Construction within Grounds.

Approval: subject to:

A. Confirmation from English Heritage that the conclusions of the IVA are acceptable to them and the enabling tests met.

B. No adverse comments arising from neighbours and statutory consultees in respect of the Fernham development which have not already been covered in the body of the report.

C. Revised plans to reflect the changes to the Fernham scheme and its relationship to the historic park to the adjacent development, Zone A, including sections through footpaths and confirmation that key trees are retained. Changes to the Zone C housing clarifying the works to the existing road access, including sections and confirmation that trees are to be retained.

D. Details in relation to retaining structures/drives and boundary treatments in Zone A and clarifying relationship to the development on Fernham.

E Specific landscape proposals to mitigate the interface between the proposed housing and the historic park to reintroduce a greater sense of enclosure and achieve greater softening and screening.

F. Resolution of conditions to be delegated to the Head of Spatial Planning. The broad areas to be covered as follows:

1. Phasing Plan to secure implementation of the benefits of the scheme, i.e. restoration of the Mansion, Rotunda and Stables and key areas of the historic garden and to an agreed timetable. To include a timetable and trigger for re introduction of stables to the development programme. To be subject to discussions to ensure that meshes with requirements of the development agreement.

2. Historic Garden Restoration Plan to include detailed measures to restore the formal gardens, the lawns, the Rockery, the pinetum, the Grotto and all other works of restoration highlighted in the submitted documents / Detailed planting schedules and management regimes to be included in a Management Plan for implementation of landscape strategy for wider site, implementation to be tied to phasing plan.
3. Woodland Management Plan to be submitted along with timetable for implementation.
4. Further detail in relation to hotel car park area.
5. Implementation of Travel Plan along with details of review.
6. Additional detail in respect of works to create public car parking and realigned tennis courts in terms of bunds, planting, retaining structures, fencing.
7. Large scale detail of key features/ materials
8. Boundary/ fence/ railing details to housing pockets.
9. Method statements in respect of retention of trees to service area, adjacent to proposed access to public car parking, adjacent to lift and kiosk required for the proposed orangery, works to the old carriageway to provide vehicular access for wedding traffic
10. Implementation of tree protection measures. Details of service runs.
11. Additional detail in respect of enhancements to hotel car parking.
12. Drainage
13. Land contamination.
14. Removal of 'PD' rights
15. Public Access.
16. Provision of pedestrian refuge under S278 notice.
17. Management of wedding route.
18. Reinstatement of original gates and fireplace currently in storage.

2. Application No: P/2011/1020/MR4: Change of use of Mansion, Rotunda

Stables and banqueting suite to hotel.

Approval: subject to the submission of detailed plans delineating the extent of the stables to be withdrawn from the current applications.

Resolution of Conditions to be delegated to the Head of Spatial Planning. The broad areas to be covered to include:

1. Grampian condition preventing the occupation of the restored Mansion buildings as a hotel complex until the bat populations in the stables have been surveyed and appropriate mitigation agreed, planning permission and listed building consent obtained for agreed works and scheme substantially complete or as agreed pursuant to discussions in relation to development agreement.
2. Additional detail with regard to external appearance of the scheme including submission of materials as appropriate.
3. Phasing Agreement and Management Strategy to include agreed timetable for implementation of works, removal of fire escapes, schedule of works, reinstatement of key features and maintenance strategy.

3. Application No: P/2011/1021/LB: Listed Building Application in relation to the Change of Use of Oldway Mansion to hotel complex.

To advise the NPCU that the Authority is minded to approve the application subject to the referral to the Secretary of State and subject to the inclusion of conditions delegated to the Head of Spatial Planning to resolve. Broad areas to be covered as follows:

1. Additional detail as required by English Heritage: Audit of internal features and further detail of internal work on a room by room basis in line with an agreed strategy for implementation. More detail in relation to service riser to Mansion and suspended ceiling to Ballroom, internal alterations to Rotunda, internal detail to kennels, retention of fireplaces to rotunda and stable fixings.
2. Additional detail with regard to external appearance of the scheme including submission of materials as appropriate.
3. Phasing Agreement and Management Strategy to include agreed timetable for implementation of works, removal of fire escapes, schedule of works, reinstatement of key features and maintenance strategy.
4. Full details of Structural and Civil Engineering Strategy and M and E Service strategy following more intrusive investigations.

4. Application No: P/2011/0926/LB: Listed Building Application in relation to construction of Orangery, restoration of key areas of historic landscape, works to listed boundary wall facing Oldway Road and works to hotel car parking.

_Revised Plans awaited in respect of alterations to boundary wall.

To advise the NPCU that the Authority is minded to approve the application subject to referral to the Secretary of State and subject to the inclusion of conditions delegated to the Head of Spatial Planning to resolve. Broad areas to be covered as follows:

1. Additional detail in respect of the appearance of the Orangery including samples of materials.
2. Additional detail in respect of hotel car parking and alterations to boundary wall.

Relevant Policies

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