



Friday, 28 February 2014

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 10 March 2014

commencing at **2.00 pm**

The meeting will be held in the Burdett Room, Riviera International Conference Centre, Torquay

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Kingscote

Councillor Pentney

Councillor Stockman

Councillor Brooksbank

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:

**Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087**

Email: governance.support@torbay.gov.uk

www.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** (Pages 1 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 10 February 2014.
3. **Declarations of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary 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 Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
5. **P/2014/0045/OA Land at Waterside Road, Paignton** (Pages 6 - 13)
3 No. Detached dwellings and associated access/parking provision.
6. **P/2013/1179/VC Yalberton Tor Quarry, Yalberton Road, Paignton** (Pages 14 - 19)
Variation of Condition 3, 5, 27 and 28 (P/2010/0638 Phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration and ceasing of mineral extraction).

7. **P/2013/1282/MRM Land At Brixham Road, Yannons Farm (Area A), Paignton** (Pages 20 - 32)
Erection of retail building (Use Class A1), with associated access, parking, service yard and plant; health centre (Use Class D1/A1/A2), with associated access and parking; mixed use building comprising 6 no. 2-bed flats (affordable) and 2 no. commercial units (Use Class B1/A1/A2/A3/D1), with associated access and parking; 4 no. 2-bed dwellings (affordable) and 5 no. 3-bed dwellings (affordable), with associated access and parking; associated roads, parking, play area, amenity space, landscaping and substation to form a Local Centre (reserved matters relating to P/2010/0289/MOA).
8. **P/2013/1209/MPA Palace Hotel, Babbacombe Road, Torquay** (Pages 33 - 52)
Erection of single and two storey roof level hotel bedroom extension. Reconstruction of west wing of hotel. Reconstruction of existing three storey wing on NE elevation to provide 4 storey block of additional guest accommodation. New Spa and gym facilities to SE elevation and replacement Orangery. Redevelopment of existing garage building to provide 73 car parking spaces and an additional 40 spaces to hotel frontage. Construction of 137 flats with leisure facilities on tennis court site with 181 covered car parking spaces and 24 visitor spaces. Restoration of gardens, woodland management, including limited felling of TPO trees and improvements to local footpaths.
9. **P/2014/0030/MPA The Pines, 78 St Marychurch Road, Torquay** (Pages 53 - 55)
Re submission of P/2013/1070 for a new four storey residential apartment block comprising 14 units with associated car parking St Marychurch Road, Torquay. Amendments comprising relocation of building forwards in the plot and revised roof design.
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.
11. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 5 March 2014. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Development Management Committee

10 February 2014

-: Present :-

Councillor McPhail (Chairwoman)

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

(Also in attendance: Councillors Davies, Richards, Thomas (J) and Thomas (D))

92. Minutes

The Minutes of the meeting of the Development Management Committee held on 13 January 2014 were confirmed as a correct record and signed by the Chairwoman.

93. P/2013/1342/MPA Land Adj. Brixham Hospital, Greenwood Road, Brixham

The Committee considered an application for the provision of a 36 bedroom residential care home (Use Class C2), with associated car parking and landscaping; following demolition of existing building and outbuildings.

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

Resolved:

Subject to the receipt of satisfactory further information in respect of landscaping, pedestrian movement through the whole hospital site and receipt of unilateral undertaking to fund a Traffic Regulation Order to control parking around the Penn Meadows entrance of the site, approved with the conditions set out in the submitted report and with the inclusion of a condition to ensure details of lighting for the footpath are submitted, approved and implemented.

94. P/2013/0324/MPA Paignton Library, Courtland Road, Paignton

The Committee considered an application for erection of two blocks of sheltered housing flats comprising 22 no. 1-bed flats and 16 no. 2-bed flats (38 flats in total) (use class C3), with connecting owners lounge, guest suite and associated access and parking; following demolition of existing library building.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Melvyn Newbury addressed the Committee against the application.

Resolved:

Subject to the completion of a Section 106 Agreement securing contributions (to include a deferred contribution clause) within 13 weeks of the valid application being submitted, approved with the conditions set out in the submitted report and the imposition of additional conditions relating to boundary treatment and detailed treatment of the elevations.

95. P/2013/0990/PA Rear Of Tor Park Road Car Park, Paignton

The Committee considered an application for the change of use from a vacant storage yard (B8) to Dog Day Care Centre (sui generis), with associated buildings, pens and parking.

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

Resolved:

Approved with the conditions set out in the submitted report, the inclusion of an additional condition in respect of boundary treatment and informatives regarding composting of dog faeces and improvement of the highway access.

96. P/2013/1152/PA Plot Adj. Roundham House, Roundham Road, Paignton

The Committee considered an application for a proposed new dwelling to include new fence and gate to northern boundary of site.

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

Resolved:

Subject to the submission of surface water drainage details and the completion of a Section 106 Agreement within three months of the date of this Committee, approved with the conditions set out in the submitted report and an additional condition in respect of the receipt of a satisfactory construction management plan and the provision of a revised plan in respect of the size of the proposed parking spaces.

97. P/2013/1229/MRM Land West Of Brixham Road, Paignton

The Committee considered an application for approval of reserved matters to P/2011/0197 which include appearance, landscaping, layout and scale in relation to 314 dwellings and associated development.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mr David Newton addressed the Committee against the application and Ian Jewson addressed the Committee in support of the application. In accordance with Standing Order B4, Councillors John Thomas and David Thomas also addressed the Committee.

Resolved:

Subject to the removal of the two properties on the red line boundary, approval, with the conditions set out in the submitted report and the resolution of outstanding matters, delegated to the Director of Place.

98. P/2013/1311/PA Woodlands, Little Preston Road, Brixham Road, Paignton

The Committee considered an application for the addition of a detached bungalow with garage on the site (re-submission of P/2013/0995 - amended scheme).

Prior to the meeting, Members of the Development Management Committee undertook a site visit.

Resolved:

Subject to the completion of a Section 106 Agreement within three months of the date of this Committee, the receipt of satisfactory information on the proposed septic tank and surface water drainage prior to the consent being issued, approved with the conditions set out in the submitted report.

99. P/2012/0567/LB Rock House, Rockhouse Lane, Torquay

The Committee considered an application for the construction of new dwelling in kitchen garden to South of Rock House and conversion and extension of existing stable block into dwelling house to north of Rock House including provision of independent access from road to the East.

Prior to the meeting written representations were circulated to members.

Resolved:

Subject to the receipt of satisfactory information in relation to trees, drainage and sewerage treatment, the completion of a Section 106 Agreement within three months of the date of this Committee to secure investment in Rock House (specifically scheduled works to roof and associated damage to the Grade II listed building) approved with the conditions set out in the submitted report.

100. P/2013/1308/OA Land At Plym Close, Torquay

The Committee considered an application for outline consent to construct detached dwelling and associated parking (access only).

Prior to the meeting, Members of the Development Management Committee undertook a site visit.

Resolved:

Subject to the completion of a Section 106 Agreement, approved with the conditions set out in the submitted report.

101. P/2013/1326/OA Land Rear Of 16-20 Alpine Road,(inc. Adj. Garage Block),Torquay

The Committee considered an application for demolition of garage block, redevelopment with three houses and associated car parking.

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

Resolved:

Subject to the completion of a Section 106 Agreement, approved with the conditions set out in the submitted report and an additional drainage condition.

102. P/2013/1357/HA The Lookout, 8 Whidborne Close, Torquay

The Committee considered an application for extension and modification to the rear of the bungalow to form living accommodation.

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

Resolved:

Approved with the conditions set out in the submitted report.

103. P/2014/0030/MPA The Pines, 78 St Marychurch Road, Torquay

The Committee considered the re-submission of P/2013/1070 for a new four storey residential apartment block comprising 14 units with associated car parking.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mrs Eileen Geipel addressed the Committee against the application.

Resolved:

Consideration deferred for negotiations on the Section 106 Agreement and the viability assessment. Officers also requested to negotiate (where possible) improvements in respect of parking, access, boundary treatment, trees and design.

104. Spatial Planning (Strategic Planning and Implementation Team) Performance Report

The Team Leader for Major Development presented the submitted report which was noted by the Committee.

Chairwoman

Application Number

P/2014/0045

Site Address

Land At
Waterside Road
Paignton
Devon

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Description

3 No. Detached dwellings and associated access/parking provision

Executive Summary/Key Outcomes

The application site is located towards the end of Waterside Road and adjacent to Dartmouth Road, Paignton. The site incorporates a small and underutilised car park and is generally flatter than the surrounding area having been quarried at some point in the past. The site is to the far north of an Urban Landscape Protection Area (ULPA) which spreads to the higher ground to the South.

The application is to determine the principle in outline for the addition of three detached residential properties with all matters reserved other than access and parking.

The principle of three dwellings in this location is considered to be acceptable with the building heights and design to be determined at reserve matters stage. It is considered that suitably designed and scaled properties, along with sufficient additional landscaping, would result in the dwellings having an acceptable impact on the ULPA and the potential through detailed design to improve the landscape character of the area.

A section 106 agreement is required to secure necessary contributions in accordance with the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) and its Update 3, and the adopted Council Report 'Third Party Contributions towards the South Devon Link Road'.

Recommendation

Subject to completion of a S106 legal agreement, and receipt of satisfactory revised plans to attend to the need for adequate visibility for plot 3; outline planning permission be granted with conditions as set out at the end of the report.

Statutory Determination Period

The eight week target date for the application is 17.03.2014. The timescale for signing the S106 agreement which in this case will be on the sale of the site (as it is in the Council's ownership) will determine when the decision is issued. It is likely this will exceed the target date. However, this delay has been agreed with the applicant.

Site Details

The application site is located towards the end of Waterside Road and adjacent to Dartmouth Road, Paignton. The site incorporates a small and underutilised car park and is within an Urban Landscape Protection Area (ULPA).

This area has been designated as an ULPA because of the contribution it makes to the natural environment through the area of open space it provides. This is part of a larger area designated as an ULPA which covers the higher land to the South and forms a border with the more urban areas surrounding it.

Permission has been granted for the addition of three dwellings on the higher ground to the South (within the curtilage of The Stoep) which has not had a detrimental impact on the ULPA. There is an existing underutilised car park within the site with sporadic tree clusters with the majority of the land being maintained grass. The proposed dwellings are to be located in a small section to the North of the ULPA which includes the existing area of the car park.

Detailed Proposals

The application is submitted in outline with all matters reserved, other than access and parking, for the construction of three detached dwellings.

The houses proposed in the submitted plans show large three storey detached residential properties with integral garages.

The addition of three storey pitched roof dwellings within the ULPA may have a detrimental impact on its open character and the outlook available from public vantage points. This is however an issue that would be dealt with at reserved matters stage with the current application considering the principle of three dwellings on the site in outline.

Summary Of Consultation Responses

Highways: A visibility splay of 43m x 2.4m x 43m is required to make the proposals acceptable. There is a concern that plot 3 may not be able to provide the necessary splay. The applicant has been made aware of this and revised plans are awaited.

Sustainable transport SPD contribution to be used on improving cycle routes in the immediate area

Drainage A condition should be added requiring further tests the submission of further information to confirm that a satisfactory sustainable drainage system or other form of system can be added to the site which would not increase surface water discharging to the combined sewer system

Trees No objection provided a detailed landscaping scheme is submitted at reserve matters stage

RSPB No objection provided the recommendations of the 'Preliminary Ecological Appraisal' undertaken by 'Green Ecology' dated April 2013 (ref: 13-04-457) are implemented.

Natural England Standing Advice should be applied

Summary Of Representations

None

Relevant Planning History

None

Key Issues/Material Considerations

As the application is in outline with appearance, layout, landscaping and scale to be considered at reserved matters stage the form of development does not need to be addressed at this time. It is the principle of the development on the site that should be considered under this application.

Plans have been submitted showing three storey properties. Officers consider that the size, height and scale of the dwellings shown would need to be tested with regards to their visual impact. It is likely that a more recessive design approach along with suitable landscaping will be required to protect the character of the ULPA.

The main issues to consider at outline stage are...

1. Principle of the development within the UPLA
2. Impact on highways - access
3. Neighbouring occupiers amenity

1. Principle

i) The site is located within an ULPA and this application therefore falls to be considered against Policy L5 of the Saved Adopted Torbay Local Plan 1995-2011. This states that development will not be permitted within Urban Landscape Protection Areas which would seriously harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment.

ii) The submitted plans are only indicative with full details of materials, design

and building heights to be submitted at reserved matters stage.

iii) Due to the topography of the area the site is located towards the bottom of a steep, elongated hill and as such is set slightly below the Dartmouth Road and is partially masked by a bank and trees along its curtilage. Having been partially quarried for its Torbay limestone the site is somewhat shallower in terms of its topography than its surroundings proving an open feel to the area.

iv) As well as having an underutilised car park, the site is in general underused and given that its current state is one of a kept lawn with sporadic trees, this development offers the opportunity to provide biodiversity and landscape enhancements through additional landscaping which would improve the appearance of the natural environment in the area. This is specified in the 'Preliminary Ecological Appraisal' undertaken by 'Green Ecology' dated April 2013 (ref: 13-04-457).

v) It is considered that suitably designed and scaled properties, along with sufficient additional landscaping, would result in the dwellings having an acceptable impact on ULPA with the potential for the landscaping mitigating to improve the landscape character of the area.

vi) The development at The Stoep for three detached dwellings to the South of the ULPA (P/2008/1350, approved by committee 28.11.2008) has not had a detrimental impact on the open character of the area. With the proposed development being to the far North of the site, the combination of the two will not seriously harm the value of the ULPA as an open element. Since the combined developments will preserve the open character of the ULPA it will continue to add to the urban environment and will maintain its existing role of providing a visual break and a border between urban areas.

vii) The principle of three detached properties in this location is considered to be acceptable. It may be that three storey buildings and/or pitched roofs would not be acceptable when considering the visual impact on the site and the ULPA. These issues will however be considered and tested at reserved matters stage. Officers are satisfied that three appropriately designed and scaled dwellings could be developed with associated landscaping so as to retain the open character of the ULPA.

viii) In terms of the additional housing the site will provide, a balance must be sought in terms of the quality of the properties and the protection of the environment. This scheme offers the opportunity to provide high quality design as well as a chance to enhance the environmental and landscape qualities of the ULPA. The density of housing proposed is considered to be at an acceptable level which provides large properties in suitable plots without eroding the open character of the area. The proposals therefore comply with policies HS, H2, H9 and H10 of the saved adopted Torbay Local Plan 1995-2011.

2. Impact on highways

Visibility splays of 43m x 2.4m x 43m are required for the access to make the proposals acceptable in highways safety terms. The Highways Officer is concerned that plot 3 may not be able to provide the necessary splay. The applicant has been made aware of this and revised plans are awaited.

3. Neighbouring occupiers amenity

In relation to amenity, the closest neighbouring residential property is some 60 metres away, there is a holiday camp (Waterside) some 30 metres from the site but this is well screened and, in any case, sufficiently lower. The additional dwellings are considered to have an acceptable impact on the privacy and amenity of neighbouring properties.

S106/CIL -

Section 106 contributions in accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery would be required for the following;

Sustainable Transport
Waste Management
Education
Lifelong Learning
Greenspace and Recreation
South Devon Link Road

The actual level of contributions would be dependent on the size of the dwellings. However given the size at outline it is envisaged that each unit would require a contribution of £8,568.00.

Conclusions

In conclusion, the proposed development is acceptable in principle, the density is appropriate to the site and would maintain the exiting open character of the ULPA with positive environmental impacts being sought both at reserve matters stage and through the implementation of the measures advised within the 'Preliminary Ecological Appraisal' submitted with this application. A section 106 agreement is required to secure the necessary contributions as outlined above. Revised plans are also required to attend to the need for adequate highways visibility for plot 3.

Condition(s)/Reason(s)

01. Reserved Matters) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval

within three years from the date of this permission:(i) layout;(ii) scale (including the datum level at which the dwelling are to be constructed in relation to an agreed fixed point or O.S. datum;(iii) appearance (including materials for all external hard-surfaced areas);(iv) landscaping (including boundary treatment and all means of enclosure; b) The reserved matters shall be carried out as approved. c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To ensure that adequate information is available about the detailed nature of the proposals and in accordance with the objectives of Policies BES, BE1, L5, H9 and H10 of the Saved Adopted Torbay Local Plan 1995-2011.

02. None of the dwellings shall be occupied until all of the car parking spaces and access thereto shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter, and shall be clearly marked as being designated to individual dwellings and/or visitors parking.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and in the interests of highway safety and in order to protect the residential amenities of the neighbourhood.

03. The recommendations and proposals set out in the 'Preliminary Ecological Appraisal' undertaken by 'Green Ecology' dated April 2013 (ref: 13-04-457) submitted with this application, (including 6.1 Site Evaluation, 6.2 Mitigation, 6.3 Compensation, 6.4 Enhancement & 6.5 Further Survey Work) shall be implemented in full prior to any development taking place. Additionally each unit should incorporate at least one permanent internal nesting cavity or nest brick designed for swifts in close proximity to the eaves and/or barge boards of gable ends.

Reason: To protect the wildlife on the site in accordance with Policy NC3 of the Saved Adopted Torbay Local Plan 1995-2011.

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

Reason; In the interests of the amenities of the area, and to accord with policies H10, L5, L10, BE1 and BE3 of the Torbay Local plan (1995 - 2011).

05. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land: (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. None of the dwellings shall be occupied until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

06. No development shall take place until drawings of the bin store(s) and details for the removal of waste likely to be generated by the development are submitted to and approved in writing by the Local Planning Authority. The bin store(s) shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings. The details for the removal of waste likely to be generated by the development shall be implemented as approved prior to the occupation of any of the dwellings and maintained thereafter in accordance with the approved details.

Reason: To ensure appropriate facilities are provided for the storage and removal of waste likely to be generated by the development, including recycling, in accordance with saved Policy W7 of the Adopted Torbay Local Plan 1995-2011.

07. No development shall take place until drawings of the cycle store(s) are submitted to and approved in writing by the Local Planning Authority. Notwithstanding the drawings listed under Condition P1, provision shall be made for the storage of 20 bicycles. The cycle store(s) shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings.

Reason: To encourage and facilitate cycling in accordance with saved Policy T2 of the Adopted Torbay Local Plan 1995-2011 and Section 4 of the NPPF.

Relevant Policies

- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- LS Landscape strategy
- L5 Urban Landscape Protection Area
- H9 Layout, and design and community aspects
- H10 Housing densities
- T25 Car parking in new development
- T26 Access from development onto the highway
- HS Housing Strategy
- H2 New housing on unidentified sites
- CF6 Community infrastructure contributions
- CF7 Educational contributions

Agenda Item 6

Application Number

P/2013/1179

Site Address

Yalberton Tor Quarry
Yalberton Road
Paignton
Devon
TQ4 7PD

Case Officer

Carly Perkins

Ward

Description

Variation of Condition 3, 5, 27 and 28 (P/2010/0638 Phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration and ceasing of mineral extraction)

Executive Summary/Key Outcomes

This application is for the variation of conditions 3, 5, 27 and 28 of application reference P/2010/0638. That application was for the ceasing of mineral extraction, a phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration.

The purpose for varying the conditions is to enable the applicants to continue working towards a lower restoration level. The proposal is to leave the remaining in-situ waste within the void, revising the restoration proposals for the site.

Subject to the deed of variation, the proposed variation to conditions 3, 5, 27 and 28 is considered acceptable and without greater impact to the character or appearance of the locality, the workings of the quarry, biodiversity or local amenity.

The application is referred to committee because of its type as a minerals/waste application for which there is no delegated powers for officers.

Recommendation

Approve subject to a deed of variation to the legal agreement.

Statutory Determination Period

8 weeks, the determination date was 2 January 2014 however due to an error on the red line plans the application had to be re-advertised. In addition there is a bond on the original permission which needs to be amended to take account of the new permission through a deed of variation.

Site Details

Yalberton Tor Quarry is an existing quarry, approximately 3ha in area and, at its maximum, 25m deep, with vehicular access from Yalberton Road. It has been worked in the past for limestone aggregates. Inert materials were deposited, by a previous operator, over roughly the south-eastern half of the void.

The site is on the edge of the built up area, with countryside beyond. Industrial estates adjoin the east and north boundaries. The nearest residential property is approximately 40m south west of the site and there are a number of residential properties to the north-west and west.

The site has been under new ownership since January 2008. The new operating company's principal business is the recycling of construction and demolition waste materials into secondary aggregates. Ancillary buildings, weighbridge and wheel-cleaning equipment are sited in the vicinity of the access. All incoming and outgoing vehicles are routed along Yalberton Road to and from the traffic light-controlled junction on Brixham Road.

Detailed Proposals

The application is for the variation of conditions 3, 5, 27 and 28. The purpose for varying these conditions is to enable the applicants to continue working towards a lower restoration level. The Planning Statement states that 'the economic viability of the existing operation is no longer realistic and after further extensive borehole testing it has become apparent that the remaining in-situ waste... was consistently not being shown as a risk of contamination and therefore being accepted to remain in-situ.' The proposal is therefore to leave the remaining in-situ waste within the void, revising the restoration proposals for the site and in order to do this a variation of condition application is required before a variation to the existing permit (from the Environment Agency) can be obtained.

It is proposed that conditions 3, 5, 27 and 28 are varied to take in to account the new revised plans and changes to the restoration level. Drawing YTQ-R-1 illustrates the proposed restoration based on a reduced waste input.

The resultant scheme is largely similar in terms of land use but the land form will differ with the reduced volume of imported material resulting in the retention of exposed low level rock faces on the northern/eastern periphery of the application site. Drawing YTQ-P-1 to 5 show the progressive infilling of the remaining void space based on the proposed restoration concept.

Phase 1 will take place within the central cell which forms a north to south valley feature. Phase 2 involves the restoration landform being created from west to east in order to preserve the site facilities, access, infrastructure and avoid disturbance of the topsoil storage mounds. This is illustrated on drawing YTQ-P-2 which shows the western area being overtipped to tie levels into the adjacent landform. Phase 3 will extend the restoration landform east by overtipping the phase 1 area resulting in a gentle surface gradient. Phase 4 will bring the restoration landform up to what is at present the operational part of the site. At Phase 4 it is expected that grassland would have begun to establish over phases 2 and 3. Phase 5, the final phase, involves the removal of site facilities and infrastructure and distribution of the remaining soils/soil forming materials held within the storage mounds.

At phase 5 an assessment would be made as to whether additional materials would be needed to complete the restoration and provide adequate medium for the establishment of grassland, trees and hedgerows.

The majority of the site is to be restored to agricultural pasture.

Summary Of Consultation Responses

Environment Agency: No objections to the proposal subject to the variation of the permit.

RSPB: No comments other than to reiterate their recommendations made for application P/2010/0638 that restoration should include nature conservation benefits, specifically habitat creation and management to provide suitable conditions for curlew buntings.

Environmental Health: No objections or comments raised.

Highways Engineer: The variations will not have any particular impact in highways terms. The comments made by the highways department as part of the original application still remain valid. Previous comments state that providing the usage of the entrance to the quarry isn't any greater than the previous working usage then highways would have no objection, in addition it is advised that the hedgerows are kept back to that visibility can be maintained.

Summary Of Representations

None received.

Relevant Planning History

P/1993/0438	Restoration of land by infill with inert materials APPROVED
P/1996/01065	Use as recycling centre for inert materials APPROVED
P/1998/0584	Review of mineral permission (conditions) APPROVED

- P/2009/0382 Temporary siting for a period of 12 months of mobile crushing and screening equipment relating to the recycling operation, with related reduction in level of filled material from 47m AOD to approximately 37m AOD, associated safety bunds and creation of new vehicle turning area
APPROVED
- P/2010/0638 Phased approach to recovering and disposing of in-situ and imported waste, the progressive land filling of the quarry void with inert waste and the construction of an appropriate geological barrier in conjunction with waste recycling operations and restoration and ceasing of mineral extraction
APPROVED

Key Issues/Material Considerations

The key issue is whether the revised phasing scheme and revised lower restoration level is acceptable and not to the detriment of the overall working of the quarry or the restoration of the quarry.

As stated above the purpose for varying these conditions is to enable the applicants to continue working towards a lower restoration level. The Planning Statement states that 'the economic viability of the existing operation is no longer realistic and after further extensive borehole testing it has become apparent that the remaining in-situ waste.. was consistently not being shown as a risk of contamination and therefore being accepted to remain in-situ.' The proposal is therefore to leave the remaining in-situ waste within the void, revising the restoration proposals for the site and in order to do this a variation of condition application is required before a variation to the existing permit (from the Environment Agency) can be obtained.

The planning statement states that the revised scheme of works will bring the following benefits, 'security of an existing recycling/landfill operation, maintain employment at the quarry, an earlier completion date [and] an in-keeping/appropriate landform within the surrounding area'.

The representations from the consultees have not raised any objections to the variation of the conditions and in line with these comments the revised phasing and restoration level is not considered to be of detriment to the nearby nature conservation designations, the highway network or occupiers of nearby buildings.

The variation of condition is not considered to result in any greater impact to the character or appearance of the nearby AGLV. The remaining conditions will remain the same as the original permission.

S106/CIL -

N/A

Conclusions

Subject to the deed of variation of the legal agreement, the proposed variation to conditions 3, 5, 27 and 28 is considered acceptable and without greater impact to the character or appearance of the locality, the workings of the quarry, biodiversity or local amenity.

Condition(s)/Reason(s)

01. Unless otherwise agreed by the Local Planning Authority in writing, no development shall be carried out other than in accordance with the approved plans YTQ 001, YTQ 002 and YTQ P1-YTQ P5 Phasing Scheme Stages.

Reason: To enable the Local Planning Authority to adequately control the development and to minimise its impact on the amenities of the local area and in accordance with Policies WS and M1 of the Saved Adopted Local Plan 1995-2011.

02. No screening of materials, as depicted on Phasing Scheme YTQ P1-YTQ P5 with the words "Screening Operation" shall take place in the areas shown as "Permanent Stockpile Area" and "Permanent Infrastructure" on those Plans, except with the prior written approval of the Local Planning Authority.

Reason: In the interests of amenities of the area and in accordance with the objectives of Policy WS of the Saved Adopted Local Plan 1995-2011.

03. Unless otherwise agreed by the Local Planning Authority in writing, the site shall be restored, using soils or soil-making material, to the contours shown on plan YTQ-R1 Final Restoration Levels.

Reason: To ensure appropriate restoration and in accordance with Policy WS of the Saved Adopted Torbay Local Plan 1995-2011.

04. Before the level of Land filling operations reaches a level of 40m AOD (approximately 2m below the lowest restored ground level), or by such later date as may be agreed by the local planning authority in writing, an aftercare scheme, to run for five years and setting out such steps as may be necessary to bring the restored land to the required standard for use for agriculture, or nature conservation, shall be submitted for the approval to the Local Planning Authority and thereafter implemented as approved, unless previously agreed in writing by the Local Planning Authority.

Reason: to enable the Local Planning Authority to adequately control the development and to ensure the land is restored to a condition capable of beneficial use and in accordance with Policy WS of the Saved Adopted Torbay Local Plan 1995-2-1.

Relevant Policies

- NC3 Protected sites - locally important site
- WS Waste management and disposal strategy
- EP3 Control of pollution
- EP4 Noise
- T26 Access from development onto the highway
- NPPF National Planning Policy Framework

Agenda Item 7

Application Number

P/2013/1282

Site Address

Land At Brixham Road
Yannons Farm (Area A)
Paignton

Case Officer

Matt Diamond

Ward

Description

Erection of retail building (Use Class A1), with associated access, parking, service yard and plant; health centre (Use Class D1/A1/A2), with associated access and parking; mixed use building comprising 6 no. 2-bed flats (affordable) and 2 no. commercial units (Use Class B1/A1/A2/A3/D1), with associated access and parking; 4 no. 2-bed dwellings (affordable) and 5 no. 3-bed dwellings (affordable), with associated access and parking; associated roads, parking, play area, amenity space, landscaping and substation to form a Local Centre (reserved matters relating to P/2010/0289/MOA).

Executive Summary/Key Outcomes

The proposals are to create a local centre on the site in accordance with the section 106 agreement attached to outline planning permission ref. P/2010/0289/MOA. The local centre would comprise a small Aldi supermarket and its car park, a health centre, a mixed use building with two commercial units and flats, 2 and 3-bed housing, and a landscaped square. The proposed uses and amount of floorspace complies with the section 106 agreement definition of local centre. Its location is different to the indicative proposals submitted with the outline application, due to the Pharmaceutical Manufacturing Unit (PMU) being built on this land. However, the location is considered acceptable, as it is within walking distance of the PMU and new housing within the Yannons Farm/Park Bay developments, and it would also be accessible to residents of Roselands on the opposite side of Brixham Road. Clearly, the proposals would also attract passing trade along Brixham Road, but this would ensure the centre's long term viability.

The layout of the central part of the scheme is unacceptable to officers at present and negotiations are taking place regarding the redesign of this space. An update will be presented at Committee. If this cannot be agreed before Committee, officers will seek delegated authority to agree these matters within the statutory time period.

It is understood than only one of the two existing GP practices now intends to relocate to the proposed new health centre. Officers are seeking clarification as to whether this is likely to affect the design of the proposed health centre and will provide an update at Committee.

A number of conditions are required to address technical matters, which are listed at the end of this report.

Recommendation

Conditional approval; subject to submission of revised drawings within 13 week statutory time period to the satisfaction of the Director of Place otherwise the application be refused; conditions delegated to the Director of Place.

Statutory Determination Period

The application is a major application and was validated on 10.01.2014. The 13 week determination date is 12.04.2014.

Site Details

The site is a square area of land adjacent to Brixham Road within the Yannons Farm development. Outline planning permission was granted to develop Yannons Farm for a mix of uses in 2011, including: approx. 220 dwellings, approx. 5,600 sq m employment (B1) floorspace, a local centre and public open space. The indicative proposals submitted at outline stage envisaged the site being developed for housing, with a small local centre further to the west. However, the site to the west has since been developed as a Pharmaceutical Manufacturing Unit (PMU), delivering all of the employment floorspace in the scheme, and an alternative location for the local centre is needed.

The site area is approximately 1.26 hectares. It is bounded by Little Preston Lane leading to Little Preston, a detached bungalow, to the north, Brixham Road to the east, the main access road into the Yannons Farm development to the south and a field to the west. The field is not part of the Yannons Farm development site and is allocated for employment in the Local Plan.

The site slopes down to the northwest, with an overall drop of around 5 metres. A line of trees bisects the site to the north.

Detailed Proposals

The proposals are to develop a local centre on the site comprising the following:

- Aldi retail unit (1,535 sq m GFA, 1,140 sq m net retail area), with associated car park (74 spaces), service yard (with 8 staff car parking spaces, lorry bay and plant), and additional on-street parking (6 spaces)
- Health centre with complimentary D1, A1, A2 unit(s), with associated car park (16 spaces) and on-street parking (7 spaces)

- Mixed use building incorporating 2 commercial units (B1, A1, A2, A3 or D1) and 6 no. 2-bed flats, with associated car park (10 spaces)
- 9 dwelling houses in 2 terraces (4 no. 2-beds and 5 no. 3-beds), with associated parking court (15 spaces)
- A landscaped square (privately managed, but publicly accessible) incorporating a children's play area
- Access roads and additional parking
- Substation

The design of the landscaped square and surrounding highways is currently being revised to take into account the comments from Strategic Transportation/Highways and officers. It is likely that this will result in the loss of one dwelling. It could also lead to the reallocation of parking spaces across the scheme within the public areas. Officers are also negotiating for the introduction of an element of glazing to the north elevation of the Aldi store in order to provide a more active and visually interesting elevation facing the landscaped square.

The plans state that the health centre would be occupied by Grosvenor Surgery and Withycombe Lodge Surgery. However, it has been confirmed that Withycombe Lodge Surgery will no longer be relocating to the proposed health centre because long term patients were concerned with the prospect of the practice moving to the other side of town. It has been confirmed that Grosvenor Surgery still intends to relocate to the new premises.

The plans indicate that the complimentary units to the health centre would be used as an opticians and chiropodist, but this has not been confirmed. The applicant has informed officers that a dental practice might occupy some of the space within the health centre too.

All the buildings would have a contemporary appearance fitting into the character of the wider Yannons Farm development. The Aldi store would have a flat roof with white render walls and glazing. The health centre would have an artificial slate roof, with brick/boarding/render walls. The mixed use building would have a single ply membrane standing seam roof, with grey brown brick walls on the ground floor and self coloured render above. The dwelling houses would be built from the same materials as the mixed use building.

Access/egress to/from the site would be provided via a new adopted highway in the southwest corner, leading down from the main access road into the Yannons Farm development.

Summary Of Consultation Responses

Torbay Design Review Panel (comments made at pre-application stage): There are significant design weaknesses in the proposed layout. Therefore, either the brief must change or the location. In both cases a much stronger understanding and case for the type of local centre being attempted needs to be made. The inclusion of the Aldi store is an attractive financial proposition and it could form a stronger than expected retail facility to anchor the local centre, but the urban design consequences in including it on this relatively small site have not been resolved satisfactorily. The long term health, vitality and viability of the local centre as a successful community asset projected into the future could therefore be threatened.

Strategic Transportation/Highways: Highways stated that the proposed gyratory one way system was not acceptable for adoption, therefore negotiations are taking place over a revised road layout. Strategic Transportation stated that the dwellings should be accessible by an adopted road, but the proposed layout does not facilitate this and is muddled. Therefore, the proposed layout is not supported. There is also inadequate provision for pedestrians and cyclists. The design should prioritise people over traffic, with better connections for pedestrians and cyclists.

Engineering - Drainage: The application indicates that surface water drainage will go to soakaways, but no technical information has been submitted to demonstrate that this is feasible. This information must be submitted before planning permission can be granted.

Police Architectural Liaison Officer: The development should ideally be constructed to achieve full Secured by Design (SBD) compliance. There needs to be clear definition between the public and private areas. The parking spaces throughout the development should be clearly allocated to prevent conflict over their use. Planting in the Aldi car park should be low and well maintained to facilitate natural surveillance. The Aldi car park should be broken up with landscaping to restrict anti-social driving when the store is closed. A gate/barrier to the car park should be considered. This also applies to the car park to the mixed use building. Effective lighting and CCTV should be installed.

Arboricultural Officer: The species selected are acceptable to the main however greater acknowledgement of the location of the site on the urban fringe is required by use of native species or cultivars. The elevation bounding Brixham Rd formed mainly by the car park to the Aldi store requires tree planting to soften and integrate the site when viewed from properties facing. This may be accomplished by way of use of Tree Pit Design 1 amongst car parking bays. Variation from the species adjacent to the Health Centre (Brixham Rd side) is required to provide longer term and more effective screening from this important elevation facing the road. The supporting tree report should be enacted in its

entirety in relation to those elements of hedgerow to be retained.

Parks: Awaiting comments

Housing Services: Awaiting comments

Torbay Development Agency: Awaiting comments

Community Safety: Awaiting comments

Building Control: Awaiting comments

Summary Of Representations

One letter of objection received. The following issues were raised:

Concerns with how excess water running off the tarmac areas will be dealt with

Where will proposed soakaway(s) be located?

Concerns over potential loss of light to Little Preston from new housing on elevated land and new trees

A copy of these have been sent electronically for Members consideration.

Relevant Planning History

P/2014/0021/PA: Creation of access road, parking areas and car park:
Pending consideration

DE/2013/0445/ZP: Local Centre reserved matters, following outline planning permission (P/2010/0289) (pre-application enquiry): Split decision 07.11.2013

P/2013/0203/NMA: Non material amendment - to application P/2010/0289/MOA - condition 4 - drainage system: Approved 28.02.2013

P/2012/1361/NMA: Non material amendment to condition 3 to application P/2010/0289/MOA -Layout: Approved 20.05.2013

P/2012/1246/NMA: Non material amendment to condition 4 of application P/2010/0289/MOA to allow for a phased submission of drainage details: Approved 31.01.2013

P/2012/1156/VC: Variation of condition 11 to application P/2010/0289/MOA – wording to tree condition to allow for a phased submission of tree protection measures to correlate with each stage of the development: Approved 01.02.2013

P/2012/0705/VC: Implement permission P/2010/0289/MOA without compliance to condition 13 - bat roost: Approved 25.09.2012

P/2010/0289/MOA: Mixed use development to form approx 220 dwellings, approx 5,600 SQM gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline) THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN: Approved 04.10.2011

Key Issues/Material Considerations

The key issues are:

1. Principle of Development
2. Design
3. Timing and Delivery
4. Parking
5. Impact on Highways
6. Impact on Amenity of Neighbouring Properties
7. Impact on Trees and Biodiversity
8. Drainage
9. Affordable Housing

1. Principle of Development

The principle of providing a local centre as part of the Yannons Farm development was approved by outline planning permission ref. P/2010/0289/MOA. The section 106 agreement attached to this permission defined local centre as:

A building or buildings with a total net internal floor space of at least 1,000 square metres (in addition to the Employment Accommodation) to be constructed on the land shown shaded blue on Plan 2 for illustrative purposes only (or any other land within the Site deemed appropriate by the Council for which all reserved matters approvals have been obtained) with uses falling within Use Class A1, A2, A3, B1, C2 and/or D1 within the meaning of the Town and Country Planning (Use Classes) Order 1987.

The total net internal floor space of the proposed retail unit, health centre and two commercial units is 2,111 sq m. The retail unit falls within Use Class A1. Permission is sought for Use Classes D1, A1 and A2 within the health centre. Permission is sought for Use Classes B1, A1, A2, A3 or D1 within the two commercial units. Therefore, the proposals comply with the definition of local centre within the section 106 agreement in terms of uses and floor area.

With regard to location, it is no longer possible to construct the local centre on the land shaded blue on Plan 2 within the section 106 agreement because this land has since been developed as the PMU. Therefore, an alternative location is

needed on the site. Whilst the proposed development site was originally envisaged to be developed for housing, it is considered an appropriate location for the local centre as it is within walking distance of the PMU and proposed housing, and would also be accessible to existing housing in the Roselands area of Paignton. In addition, the applicant considers it to be a commercially viable location for a local centre.

As a separate issue, the gross floor area of the proposed Aldi store is 1,535 sq m. This is below the default threshold of 2,500 sq m in the NPPF where an impact assessment would be required. However, it is above the local threshold of 500 sq m set out in Policy TC3 of the new Torbay Local Plan - Proposed Submission Plan (February 2014), which has just been published for consultation. Given the new Torbay Local Plan has limited weighting at this time, officers have not requested the submission of an impact assessment. It is considered likely that the proposed Aldi store would draw trade away from the existing larger supermarkets in the vicinity of the site, i.e. Sainsbury's, Asda and Morrisons, rather than have a significant impact on existing centres.

Therefore, the principle of the proposed development is considered acceptable and in accordance with the outline planning permission.

2. Design

The application seeks detailed approval for the reserved matters of access, layout, scale, appearance and landscaping.

A pre-application enquiry was submitted for the scheme and the draft proposals were taken to the Torbay Design Review Panel (TDRP). The Panel was run as a design workshop, where Panel Members, officers and the applicant's design team discussed the scheme. A number of alternative layouts were tested, but a satisfactory approach could not be reached. The TDRP concluded that the site was too constrained for all of the proposed uses to create a successful local centre. In particular, the incorporation of the Aldi store and its car park placed a great deal of pressure on the satisfactory arrangement of the site. The TDRP also recognised that whilst the Aldi store would potentially provide a greater amenity to local residents, it would also attract passing trade along Brixham Road, which would increase traffic to the site acting as a barrier to pedestrian/cycle movement. In addition, it is likely that it would be closed on Sunday evenings, limiting its role as a convenience store.

The application proposals do not differ significantly from the pre-application proposals. However, officers consider that the proposed uses offer the best option for the provision of a local centre at Yannons Farm, taking into account the definition of local centre in the section 106 agreement and the commercial reality of providing viable retail uses on the site. Therefore, as a compromise to allowing the difficult Aldi store and its car park, officers have sought the provision of a high quality designed, pedestrian focused landscaped square within the centre of the

site that functions as the 'heart' to the local community and doesn't come across as just a secondary piece of public open space.

The applicants have endeavoured to do this, but the resulting 'shared space'/one way gyratory system is not acceptable to Highways and is considered to be too vehicle dominated and lacking in design quality/identity to create an acceptable 'heart' to the local community. Therefore, negotiations are ongoing in order to resolve these issues and the updated position will be presented at Committee. Should the design not be agreed before Committee, officers would like delegated authority to continue negotiating with the applicant to try and resolve these issues within the 13 week statutory time period.

The outstanding issues affect the reserved matters of layout and landscaping. The Arboricultural Officer has made a number of comments with regard to the latter that also need to be taken into account.

The vehicular access to the site in the southwest corner and pedestrian/cycle access in the southeast corner are both acceptable. Likewise, the scale and appearance of the buildings are acceptable, subject to providing a more active northern elevation to the Aldi store facing the landscaped square. This is a very blank and uninteresting elevation at present that would impact on the amenity of users of the landscaped square. A condition is also required for details of materials specification/colouration prior to commencement of the buildings.

3. Timing and Delivery

It is considered that all the proposed uses are required for the development to constitute a local centre. Therefore, there is a risk that only one of the proposed uses could be constructed, such as the Aldi retail unit and its car park, but none of the other uses. The applicant might then seek to enlarge the retail unit and/or car park at a later point in time impacting on the rest of the scheme.

In order to protect the Council's position in this regard, a suitably worded condition is recommended to ensure the early delivery of the health centre, mixed use building, housing and landscaped square.

4. Parking

Officers have requested further justification for the allocation of parking across the scheme. This has not been forthcoming. Officers are concerned that only 7 visitor car parking spaces are proposed for the health centre. Whilst some patients might choose to park in the Aldi car park, Aldi could restrict the use of its car park to customers only. Therefore, the car park behind the health centre should be available to patients and not just staff.

5 car parking spaces are proposed adjacent to the landscaped square for general use. The need and location of these is being considered in the revised proposals. The comments from the Police Architectural Liaison Officer are

relevant, which state that the parking spaces throughout the development should be clearly allocated to prevent conflict over their use. This should be achieved where possible through good design instead of a reliance on signage.

The Aldi car park complies with the Council's adopted parking standards. 2 spaces per dwelling are proposed for the 3-bed houses and 1 space per dwelling for the 2-bed houses in the parking court, with one left over space. Whilst this does not strictly accord with the adopted parking standards, it is considered acceptable given the edge of town location. The loss of one of the dwellings in the revised proposals will free up additional spaces in the parking court to facilitate 2 spaces per dwelling for 7 of the houses and 1 space for 1 house. 1 space per dwelling would be provided for the flats in the car park behind the mixed use building, which is acceptable.

5. Impact on Highways

Highways officers have raised no concerns with the impact of the proposals on the function of surrounding roads. However, Strategic Transportation officers have requested provision of a crossing point for cyclists and pedestrians on the main access road from Brixham Road to make it easier to access the site on foot/bicycle. They have also requested upgrading the traffic signals at the Brixham Road junction to a toucan crossing. These improvements to the adjacent road are still being negotiated with the applicant, but could be secured via condition/278 agreement.

6. Impact on Amenity of Neighbouring Properties

Despite the site being slightly elevated compared to the existing bungalows to the north, there is sufficient separation distance between the buildings to protect the privacy and amenity of the bungalows. In addition, trees and structure planting is proposed along the northern boundary to provide an element of screening. Should the application be approved, a management plan would be required to ensure that this vegetation does not become overgrown and block light levels to the bungalows in the future. This can be secured by condition.

7. Impact on Trees and Biodiversity

These issues were taken into account in the outline application and are controlled by conditions on the outline planning permission.

8. Drainage

Condition 4 on the outline planning permission requires details of a sustainable urban drainage system. This condition has been amended to allow these details to be submitted prior to the commencement of construction of the drainage scheme of any phase of development. In theory, this means that the drainage system could be designed and implemented after the development has been constructed, even though this is unlikely.

To protect the Council's position in this regard, two further conditions are

recommended. The first would require the proposed soakaways to be constructed underneath adopted highways or car parks in order to provide adequate space for trees to grow and protect good quality surface materials from damage should maintenance need to be carried out to the soakaways in the future. The second would require the design of the drainage system to take into account the issue of water re-emergence after it has soaked away to ensure that the neighbouring bungalows are not flooded from the proposed development. This responds to concerns raised by the owner of Little Preston.

9. Affordable Housing

The application states that the intention is that all of the proposed dwellings would be affordable housing. However, officers in agreement with the Affordable Housing Manager require a mix of open market and affordable housing on the site in order to provide a mixed and balanced community.

The mix of open market and affordable housing on the site does not form part of this reserved matters application in any case, as it is addressed by the section 106 agreement attached to the outline planning permission (ref. P/2010/0289/MOA). Agreement must be reached separately with the Council concerning this matter. Officers are still negotiating with the applicant in this regard.

S106/CIL -

The section 106 agreement attached to outline planning permission ref. P/2010/0289/MOA is of relevance.

Conclusions

In conclusion, the proposals are acceptable subject to the submission of revised drawings within the statutory 13 week time period that address the issues raised in this report. The proposals would provide a mix of uses that have the potential of creating a viable local centre with vitality. The proposed dwellings would ensure a human presence during evenings and at weekends when the Aldi store, health centre and commercial units are closed. There is potential to create a high quality designed landscaped square that would be the focus of the local community. Negotiations are ongoing with the applicant in this regard.

Condition(s)/Reason(s)

01. No development shall take place until a Phasing Plan for the development of the site has been submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall split the development of the buildings and associated parking, and landscaped square on the site into different phases. The development shall be constructed in strict accordance with the approved phasing plan.

Reason: To ensure the delivery of all the uses and landscaped square in the Local Centre in order to provide a Local Centre with vitality that meets a range of local needs and provides a sense of identity to the neighbourhood in accordance with saved Policies S11, BE1 and BE2 of the Adopted Torbay Local Plan 1995-2011, and paragraphs 23, 58 and 70 of the NPPF.

02. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:(a) the parking of vehicles of site operatives and visitors (b) loading and unloading of plant and materials (c) storage of plant and materials used in constructing the development (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate (e) wheel washing facilities (f) measures to control the emission of dust and dirt during construction (g) a scheme for recycling/disposing of waste resulting from demolition and construction works (h) measures to minimise noise nuisance to neighbours from plant and machinery

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users.

03. Prior to the commencement of development of each of the buildings, an External Materials Schedule shall be submitted to and approved in writing by the Local Planning Authority showing full details of all external materials of the building, including specification, colouration and images. The External Materials Schedule shall include the arrangements for the display of samples of materials on site prior to the approval of the same. The buildings shall be constructed from the materials approved.

Reason: In the interests of design and in order to accord with saved Policies BES and BE1 of the Adopted Torbay Local Plan 1995-2011, and paragraph 58 of the NPPF.

04. The development shall be built to Secured by Design Standards and shall aim to achieve a full certification in this regard. Evidence that this has been achieved shall be submitted to and approved in writing prior to the useful occupation of any of the buildings hereby permitted. This shall account for the advice by the Police Architectural Liaison Officer.

Reason: In the interests of crime prevention in accordance with saved Policy CF2 of the Adopted Torbay Local Plan 1995-2011.

05. 278 Agreement

06. Prior to the useful occupation of any of the buildings hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include: long term design objectives, ecological objectives, management responsibilities and maintenance schedules for all landscape areas. The LEMP shall be implemented as approved.

Reason: In the interests of the amenities of the area and biodiversity, and in order to accord with saved Policies L10 and BE2 of the Adopted Torbay Local Plan 1995-2011, and paragraphs 58, 64, 109 and 118 of the NPPF.

07. None of the buildings hereby permitted shall be usefully occupied until all of the car parking spaces and access thereto associated with the building shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and in the interests of highway safety and in order to protect the residential amenities of the neighbourhood.

08. The details of the sustainable urban drainage system required by Condition 4 (as amended) of outline planning permission P/2010/0289/MOA shall include details of how the drainage system will not affect the five existing dwellings to the north of the site from the re-emergence of surface water. Any soakaways shall be placed either beneath adopted roads or private car parks and shall not be placed beneath the landscaped square.

Reason: To protect the existing dwellings on the lower ground to the north of the site from flooding and to ensure that no trees, planting and good quality materials in the landscaped square are damaged should maintenance need to be carried out to the soakaways in the future in accordance with saved Policies EPS and BES of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

09. Convenience/Comparison goods floor area in Aldi

10. Delivery and unloading times

Relevant Policies

HS	Housing Strategy
H9	Layout, and design and community aspects
H10	Housing densities
S11	New Local Centres
CF2	Crime prevention
IN1	Water, drainage and sewerage infrastructure
L10	Major development and landscaping
EPS	Environmental protection strategy
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development
T26	Access from development onto the highway

Agenda Item 8

Application Number

P/2013/1209

Site Address

Palace Hotel
Babbacombe Road
Torquay
Devon

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Executive Summary/Key Outcomes

The Palace Hotel is one of the Bays premier hotels. It has a great location, extensive grounds and huge potential as a 'top end' tourist destination. It has seen better days and is rapidly declining in the AA rankings. It is in need of substantial investment if it is to be fit for purpose and survive as a top grade hotel.

The Tourism Strategy 'Turning the Tide' identifies the need to improve the range of top quality hotels if the Bay is to remain a premier tourist destination. There is a shortage of tourist accommodation of this nature.

This application involves substantial improvements to the hotel and its tourist offer which will be funded by the construction of 137 private flats on the adjacent tennis court site which has an extant approval for 142 holiday flats in a building of a similar design.

The 'Tennis Court' site is identified in the saved Local Plan as a housing site and the emerging Local Plan as a potential development site primarily for housing. The SHLAA described the site as having the potential to yield 30-40 units but notes that there may be the potential for larger numbers to come forward.

This scheme delivers a significant level of housing in 4 blocks which layer up from 4 to 8 storeys. The height and volume of the flats is a key issue however financial evidence has been put forward to show that this scale of development is necessary to achieve the investment in the hotel. The scheme has been designed to sit within its landscape setting and to reflect the broad form of the existing consent.

The benefits to the local economy, in terms of jobs and spin off spend are significant. The number of jobs is anticipated to increase from 80 to 130 and the visitor spend from £1.3 to £4.5 million by 2019.

Failure to achieve this investment will result in this building becoming more dilapidated, less able to compete and further its slide down the AA rankings.

The quality of the scheme and the enhanced range of facilities, including improved restaurant facilities, new spa and leisure facilities, conference and entertainment facilities will be a pull for tourists and locals alike.

The design of the scheme is well considered and appropriate and has much improved through ongoing negotiation and input from officers and the design review panel.

The site is of value for its wildlife and landscape qualities. These are protected and through Woodland Management Plans, Garden Restoration Proposals and a LEMP that will offer full mitigation and secure a more robust future for the ecological and landscape qualities of the site.

The setting of the adjacent Scheduled Ancient Monument is unaffected and a Conservation and Ecological Management Plan will be secured to ensure that this 'at risk' archaeological resource is properly protected. The SSSI will be improved in terms of management of the calcareous grassland and the impact of walkers mitigated.

There is support from the local community for the broad principles of the scheme although there is concern about the size of buildings, adequacy of car parking, impact on the highway network, impact on trees and wildlife.

It is important that the improvements to the hotel are secured and there is a need for a mechanism in the S106 that will tie key stages in the hotels refurbishment to construction/occupation of the flats.

£1.37 million has been offered towards meeting Affordable Housing contributions and £411,000 towards community infrastructure contributions. This does represent a shortfall and is being assessed via an IVA. However, the economic benefits of the proposal have to be weighed in the balance.

The S106 community infrastructure contributions will secure benefits in terms of enhancements to the SW Coast path network, to the Walls Hill SAM/SSSI, to Ansteys Cove and allow, subject to safety surveys, the opening up of access to Redgate Beach. It will also secure benefits to cycling, bus infrastructure and improvements to public footpaths.

There are some outstanding matters to be resolved in relation to the S106, specifically the level of AH and community infrastructure contributions and the detail of the mechanism for ensuring delivery of the completed hotel. An update will be presented at the Committee Meeting.

Recommendation

- A. Site visit.

- B. Approve: Conclusion of a S106 agreement, at the applicant's expense within 3 months of the date of this decision to secure i) Details of a mechanism to ensure a staged relationship between the construction of the proposed flats and the delivery of the hotel refurbishment including safeguards in relation to letting of contracts, bonds, etc (as appropriate) and restrictions on occupation of the final tranche of 30 flats until hotel restoration fully complete. ii) Payment of the agreed AH and community infrastructure contributions and iii) improvements to the Walls Hill SAM/SSSI via a Conservation and Ecological Management Plan.
- C. Conditions as detailed at the end of the report.

Statutory Determination Period

This is a major application and should be determined within 13 weeks. This expires on the 19th March. Given the complexities of resolving the S106 it will not be possible to reach a decision within the 13 week deadline. The applicant has agreed to an extension of time in which the decision can be made.

Site Details

The Palace Hotel was originally a grand Italianate villa and was built as a home for the Bishop of Exeter in 1841. It has been greatly extended and remodelled and now forms an important, albeit declining hotel set in spacious and attractive grounds. It is not listed.

The site is split with the hotel and its main gardens to the south west of Ansteys Cove Road and the indoor tennis building, outdoor tennis courts and woodland areas to the north east. The entire site is affected by a range of local plan designations which reflects its environmental and landscape sensitivities.

The main gardens fronting the Palace Hotel are designated Urban Landscape Protection Area and County Wildlife Site. The "Tennis Court" site, is immediately bounded by a county wildlife site; SSSI; Urban Landscape Protection Area; Area of Great Landscape Value; and Coastal Preservation Area. The Coastal Protection Zone skirts the lower south east portion of the site.

The land to the north of the tennis court site, currently comprising an attractive stone built cottage, gardens and woodlands is an allocated housing site (H1.8) for the provision of 35 units. There is an extant permission for 142 holiday flats on land to the immediate south of this on the site of the existing indoor tennis court building.

Walls Hill Scheduled Ancient Monument and SSSI extends close to the boundaries of the site.

Detailed Proposals

This application comprises extensions and improvements to the hotel with 137 private residential flats on the tennis court site to fund the improvements.

It is a detailed application and the scheme comprises the erection of single and two storey roof level hotel bedroom extension with reconstruction of the west wing of the hotel and reconstruction of existing three storey wing on NE elevation to provide a 4 storey block of additional guest accommodation. The scheme also includes a new Spa and gym facilities to SE elevation, enhancements to restaurant, entertainment and conference facilities and replacement Orangery.

The existing garage building located at the junction of Babbacombe Road and Ansteys Cove Road is to be redeveloped to provide 73 car parking spaces and an additional 40 spaces are to be accommodated on the hotel frontage.

The scheme includes the construction of 137 flats with leisure facilities on the 'tennis court' site with 181 covered car parking spaces and 24 visitor spaces.

The application includes restoration of the gardens, woodland management, including limited felling of TPO trees and improvements to local footpaths.

It is accompanied by a Design and Access Statement, Statement of Heritage Significance, Flood Risk Assessment, Transport Assessment and Travel Plan, Geotechnical and Geoenvironmental Investigation Report, an Ecological Impact Assessment, an Arboricultural Implications Assessment, Landscape Assessment and Energy Statement.

Summary Of Consultation Responses

Environment Agency: Have no objection providing the development proceeds in accordance with the submitted flood risk assessment.

Natural England: Have no objection subject to the proposal being carried out wholly in accordance with the details submitted with the application i.e. implementation of the mitigation outlined in section 4 of the Ecological Impact Assessment Dec 2013 and this to be secured in perpetuity. A LEMP (Landscape and Environmental Management Plan) is required to secure a management regime that will underpin delivery of the mitigation and enhancement measures. Biodiversity should be improved to comply with NPPF para 118 and NERC Act 2006 by ensuring native species in the landscape scheme.

Torbay Coast and Countryside Trust: Support the mitigation included in the Ecological Impact Assessment in respect of the Hopes Nose to Walls Hill SSSI. Also support proposals to reinstate access to Redgate Bay and to improve existing links and footpaths adjacent to Walls Hill although more details are required. Would like to see the viewing platform reintroduced on Walls Hill which was secured as part of previous approval.

RSPB: Support the recommendations of the Ecological Assessment including a LEMP (Landscape and Environmental Management Plan) for the Woodland and recommends the addition of conditions to secure nest sites within the new buildings and details of this to be included in LEMP. Supports sedum roofs to new flats.

English Heritage: Consider that the impact of the proposal on the Walls Hill Scheduled Ancient Monument (SAM) requires further detailed assessment to confirm that the additional height of both the flats and hotel elements of the the scheme will not have an adverse impact on the SAM and its setting. A Conservation Management Plan is required to ensure that the integrity of the SAM and its archaeological value is not compromised by additional footfall likely to be generated by the scheme.

Sports England: Have no objection.

South West Water: Have no objection.

English Riviera Tourism Company: Observations awaited.

Architectural Liaisons Officer: Considers that there is limited reference in the Design and access statement to designing out crime. Raises specific concerns about need for clear distinction between hotel and private accommodation and definition of public and private space. The importance of design and effective management of the underground car park is highlighted along with detailed design points about crime prevention.

Affordable Housing Manager: Questions whether the offer of an offsite contribution of £1.37 million is adequate given the level of private residential accommodation included within the scheme.

Trees: Highlights loss of good quality trees and questions whether the loss could be avoided. Specifically, Class A Beech Tree and Corsican Pine to the south of the proposed block of flats, 2 of the Ash trees proposed to be removed to allow car parking to the north of the flats and 2 Holm Oaks adjacent to the hotel to be removed to allow the Spa to be constructed.

Highways: Require more detail in relation to the proposed access and improvements along Ansteys Cove road and to junction with Babbacombe Road. SPD sustainable transport contribution to be spent on improvements to coast paths and other footpath links, bus shelter, cycle routes and safety improvements to the north of the site at St Annes Road, identified as an accident site in the TA.

A public right of way that skirts the southernmost boundary of the site is identified as requiring improvement.

A road traffic order will be required to extend the one way restriction along Ansteys Cove Road which will need to be funded by the applicant.

Design Review Panel: The scheme was considered by the Design Review Panel at a meeting on 22nd August 2013. The comments, in summary, were that a more detailed evaluation of the site, particularly its landscape qualities, would be beneficial and would help inform a vision for the site, that the strategy for dealing with the two distinct uses on the site required greater clarity, that more supporting information was needed to properly assess the size and impact of the proposed buildings which were considered to be 'too overpowering' and that the hotel refurbishment lacked architectural quality.

The proposals were subsequently amended.

Summary Of Representations

At the time of writing, 7 letters of objection and 4 letters offering 'unreserved' to cautious support have been received. This is very few in relation to a scheme of this nature.

The main concern relates to the adequacy of onsite car parking and the impact of additional traffic/parking on Babbacombe Road.

Also raised as concerns are the scale of tree loss, the additional scale of building on the site which is considered to be 'under-represented' in the submitted plans, the impact of this on the character of Ansteys Cove Road and the impact on wildlife.

A public exhibition was held on the 25th September 2013. This gathered generally positive feedback with 81% of the 67 people who completed a feedback form supporting the hotel refurbishment and 79% supporting the provision of the new apartments. A key issue emerging from consultation was car parking and traffic congestion.

Details of the application were presented to the Wellswood Community Partnership Steering Group in December 2013 and to the general meeting in January 2014. The response to the scheme was generally supportive in terms of the principles of development although concern was expressed about the adequacy of car parking, the potential for congestion on Babbacombe Road and the ability of the junction onto Babbacombe to cope with increased traffic levels.

These representations have been reproduced and sent electronically for Members consideration.

Relevant Planning History

There is a long history of applications with relation to the site. Of relevance are:-

P/2010/1224/OA: Extend time limit for implementation of P/2007/1224.
Approved: 29.09.11.

P/2007/0969/OA: Erection of 142 Holiday apartments. Approved: 20.02.08.

P/2006/1950/OA: Erection of 142 holiday apartments. Withdrawn.

P/2001/0439: Renewal of application (96.0723) to construct 28 bedroom suites in a roof extension. Approved: 30/5/2001.

P/2001/0436/OA: Erection of 36 units and parking. Approved: 24/5/2001.

P/2004/0812/RM: Erection of 36 units and parking. Approved: 21/7/2004.

Key Issues/Material Considerations

Background

There is an extensive planning history to this site. In 2007 planning permission was granted for development of the 'tennis court site' for 142 holiday flats arranged in a crescent form which occupied a similar footprint to the existing building.

This building achieved a height equivalent to the ridge of the existing tennis court building. It secured, as part of a Master Plan approach to the future of the wider site, improvements to the hotel, its setting and garden landscape. This comprehensive approach was welcomed as it replaced a series of ad hoc and piecemeal proposals which had previously characterised development on the site. An extension of time for implementation of this scheme was granted in 2011 and is still extant.

This scheme has not proven to be a viable solution for the site and the hotel is increasingly in need of investment. Consequently, this application has evolved which includes more extensive improvements to the hotel and in relation to the tennis court site seeks a broadly similar form of development but for private residential rather than holiday accommodation.

The key issues arising are:

1. The improvements to the hotel
2. The provision of private residential accommodation within the hotel grounds
3. The design and appearance of the proposed flats
4. The impact on trees and landscape setting
5. Impact on Walls Hill SAM and SSSI
6. The impact on ecology
7. The impact on highways
8. The benefits to the wider area
9. The deliverability of the complete package of development

Each will be addressed in turn.

1. Improvements to the Hotel

The Palace Hotel is a key hotel within the Bay but is in need of major investment if it is to deliver a 'high end' tourist facility which it has the potential to do. It is set within extensive parkland grounds and has a great location close to the sea and coastal walks.

An assessment of the condition of the hotel identifies a range of structural defects which need to be remedied. It is also the case that the décor is becoming tired and substantial investment is needed to bring the hotel up to date and to be in a position to compete with other major hotels.

The hotel facilities, which include conference facilities, squash courts, indoor and outdoor swimming pools, golf ranges, fitness suites, indoor and outdoor tennis courts, are in need of updating and investment. It has performed less well in the AA rankings as a consequence.

The need for investment in the bigger hotels to deliver a better quality tourist destination within the Bay is regularly highlighted in assessments of the tourist industry.

The ambition is to lift the current low 4* rating, which is under threat, to a high 4-5* standard. It is anticipated that around £16 million pounds worth of investment is needed to achieve this.

An Economic Appraisal submitted with the application confirms that the benefits the hotel currently delivers in terms of jobs and linked tourism spend could be significantly increased if the hotel was extended and improved. The ambition is to deliver a transformed hotel with a much improved standard of accommodation and range of onsite facilities that could achieve 4-5* status and be a major contributor to the local economy. The appraisal predicts employment levels increasing from around 80 staff currently to around 130 with an estimated 8 'spin off' jobs. It predicts visitor spend increasing from around 1.3 million to 4.5 million in 2019. This will lead to a greater hotel spend on local goods and services estimated to be 2.3 million from 2015.

In order to achieve this, the hotel building needs to be extensively remodelled and extended. To deliver this, the tennis court site needs to be developed for private occupancy rather than holiday flats.

In respect of the hotel, it is proposed to add single storey roof extensions to the two wings of the hotel and a two storey roof extension to the main core of the hotel which originally formed the Bishops Palace. The single storey wings are to a contemporary design, recessive in terms of visual impact and provide luxury bedroom accommodation with balconies overlooking the grounds. The 2 storey addition to the core is to a more traditional design and in order to achieve the correct proportion to the elevation, extends the existing elevation by one storey with a storey of mansard roof. Of relevance to consideration of the roof alteration, is the 2001 approval for a roof extension comprising 28 bedroom suites although this was never built and is now time expired.

The scheme also includes the rebuilding of the west wing with rationalisation of the fenestration, rebuilding of an existing wing on the road facing elevation to a four storey height. There are new extensions to the rear garden facing elevations to accommodate improved dining facilities, a replacement orangery and a new three storey spa and leisure suite with indoor and outdoor pool. All these new additions are to a more contemporary design that complements rather than mimics the more traditional appearance of the main building. It is considered that, subject to detail, the extensions to the building are well designed and enhance the existing building.

The overall appearance of the building is improved as the rather monolithic and 'patchwork' appearance to the building is modified. The original Bishop's Palace is defined through the roof extension and stands as a more separate entity, the fenestration is made more rhythmic and consistent and a clutter of additions to the building such as fire escapes and random extensions are removed. The new additions are, with the exception of the roof extension to the Bishops Palace to a unified and more contemporary design which helps create a more consistent appearance across the whole building.

The main entrance is improved by remodelling of the canopy and foyer to create a more impressive entrance to the building and legibility is enhanced by clarifying access to the different facilities on site. The public views of the building are improved by the moves to simplify and rationalise the main elevation.

The existing garage building, indoor pool and squash courts, which border the junction of the site with Babbacombe Road and Ansteys Cove Road are to be demolished. The swimming pool and squash court buildings have a particularly poor impact on the views and experience of Ansteys Cove Road and their loss is welcomed. The garage building will be replaced by a two storey car park which will have a much lower height than the existing building which will open up views into the site from Babbacombe Road. There are detailed design matters to resolve but the proposal is acceptable in principle.

Given the discussions above, the proposal complies with local plan policies TUS, TU3 and TU5 which seek to secure the future of the tourist industry in the Bay and policies BES and BE1 in terms of the quality of the design.

2. Provision of Private Residential Accommodation within the Hotel Grounds

The principle of including residential development within the hotel grounds is already established. A significant and prominent part of the tennis court site is an allocated residential site with an identified capacity of 35 units in the Adopted Torbay Local Plan. This site, initially allocated as a result of an Inspectors Decision is currently occupied by an attractive stone cottage and a belt of TPO Woodland immediately abutting Babbacombe Road.

The site is identified in the SHLAA as a potential housing site with a potential to yield between 30 and 40 units but notes that there may be scope for larger numbers to come

forward. The Proposed Submission Version of the Local Plan identifies the site as a potential development site primarily for housing.

The Council's 5 year land supply identifies 35 dwellings as being deliverable on this site within 5 years and 115 in the 6-10 year period. This would make an important contribution as a brownfield site to maintaining a rolling 5 year supply of housing land.

Development of this part of the site for a housing scheme would, in isolation, be difficult to resist in terms of planning policy. The 2007 scheme, in delivering development in a less sensitive part of the site succeeded in 'saving' the cottage and a belt of TPO woodland. A benefit of this application is that it achieves the same outcome and the future of the cottage and woodland is secured.

The improvements to the hotel are essential. However these works have to be funded and the failure of the holiday flat scheme to be progressed suggests a significant viability shortfall. Financial information has been submitted which supports the need to construct this level of private flats if the improvements to the hotel are to be delivered.

The site is not within a PHAA and it conveniently separates into two distinct sites which, divided by Ansteys Cove Road, allows the 2 uses to coexist without detriment to the tourism function of the main hotel site. Whilst there is a putative loss of tourism facilities in the form of the indoor and outdoor tennis courts this is compensated for by new facilities on the hotel site.

The approved holiday flats were divided into three 'tenures'. A third were to be managed by the hotel, a third were to be time share and a third second homes. It is still the case that private flats built on this site could be purchased to be let for holiday purposes and given the proposed enhancements to the Palace Hotel; this is likely to be an attractive investment.

As private flats, the issue of Affordable Housing and Community Infrastructure Contributions is clearly of significance. The applicants have submitted an IVA to substantiate their concerns regarding viability, but have offered to meet a proportion of the AH and the community infrastructure contributions. The details of this are addressed in the relevant section below.

The Police Architectural Liaison officer has raised legitimate concerns about the management of the space and the need for clear distinction between private and public space which will be followed up and incorporated into the landscape/ management proposals for the site.

In view of the circumstances of the site and its history, the principle of including private residential accommodation within the hotel grounds is acceptable and it will not adversely impact on the tourist function of the site. In fact, without the investment that this levers into the site the future of the hotel is in doubt.

3. The design and appearance of the proposed flats

This largely open site, which is well screened from wider views by its topography and tree planting, comprises the former kitchen gardens, a large and unattractive indoor tennis court building, outside tennis courts and the owner's cottage.

A belt of TPO Woodland which skirts the site, forms an elevated and curved backdrop separating this site from the adjacent Walls Hill SAM/SSSI. The footpath to Walls Hill is located to the north of the site affording views into and across the wooded glade adjacent to the owner's cottage.

The holiday flat approval provided for a crescent shaped building which followed the curve of the rear wooded slope and 'layered up' from 3 stories at either end of the building to a maximum of 6 stories at the midpoint of the building. This was equivalent in height to the ridge of the existing tennis court building. This was an outline application which established siting and design but not the appearance of the elevations. It is extant and is material in consideration of this application.

This building occupies a broadly similar crescent form and is the equivalent of just over a storey higher than the approved scheme. The ridge of the existing tennis court building is 72.2m OD and the maximum height of the proposed flats is 76.5m OD. It also extends beyond the footprint of the existing tennis court building incorporating the existing overspill car park area.

This increase in footprint is not an issue from a design perspective.

The flats increase in height from four stories to achieve a maximum of eight stories towards the middle of the site. Whilst this represents a big building, it is necessary to consider this impact in context.

The extant approval establishes that in principle, a building of some stature is acceptable. The site is viewed in close association with the Palace Hotel which is a substantial building in its own right. Sections confirm that the flats would be lower in height than the extended hotel building.

The highest part of the extended hotel, the tower, will achieve a level of 77.8 m OD. The top floor of the proposed flats achieves a slightly lower height of 76.5 m OD. The proposed flat building however quickly scales down from this maximum height. This means that the flats, despite some similarity in terms of its maximum height, will appear subservient to the main hotel complex.

In its design, the architects have sought to ensure that there is a tie up between the new extensions to the Palace and the proposed flats. This is achieved through use of materials, roof form and key features.

The association in terms of appearance assists in integrating a significant scale of building into the site by creating a separate but cohesive character and form of building

which is distinct from its urban surroundings. This, coupled with the extensive landscape setting to the site acts to further separate the proposed buildings from their context and in this way buildings of some size can be more readily accommodated within the immediate townscape.

Whilst visible from Babbacombe Road, it is not likely to have a significant impact on the character of the street due to the distance, it's layering up from the edges of the site and the screening offered by the woodland.

There are significant views of the site from a higher level, particularly from the estate centred on Perinville Road and the handling of the roof is important. The use of sedum roofs and imaginative planting will help mitigate this but visuals have been requested which will help reach a judgement on the visual impact from higher ground.

There are key views of the building from the junction of Babbacombe Road with Ansteys Cove Road and these will be the main 'passers-by' views of the site. It is thought that the curved and layered form of the building is acceptable and sits comfortably with the landscape character of the site. The elevations are very rhythmic and comprise heavily glazed elevations with balconies which will have a fairly lightweight appearance. It is important that the rear of the building is consistent with the wooded backdrop and so the use of materials that blend with this landscape character is vital particularly given the views of the building that will be possible from the footpath to Walls Hill. Subject to detail in respect of key features and use of materials, the scheme is considered to be well designed and accords with key design policies in the NPPF, adopted Local Plan and the emerging Local Plan

The set back of the building from Ansteys Cove Road and its relationship to the topography of the site reduces its impact on views along and enjoyment of this attractive route. The demolition of the squash court and indoor swimming pool will have a beneficial impact on the character of Ansteys Cove Road and will increase its sense of openness.

The increase in footprint and height are relevant in terms of the impact on trees and on Walls Hill SAM/SSSI and will be addressed in the following sections.

4. The impact on Trees and landscape setting

The site is covered by a variety of landscape designations which act to protect the intrinsic qualities of the site. It is also subject to Woodland and Area TPO's.

There are a substantial number of protected trees on the site of varying health and quality. An Arboricultural Assessment has been carried out which evaluates the value of the trees and the impact of the development. The works are broadly broken down into two areas; trees to be removed as a consequence of development on the Tennis Court site and those to be removed on the Palace Hotel site to open up historic vistas across the site and to facilitate restoration of the original parkland setting.

The former is the most sensitive. The tennis court site is bounded by TPO Woodland which forms an arc around the site and is critically important in terms of the setting it provides to the new buildings, the screening potential that it offers from Babbacombe Road and particularly Walls Hill.

The trees have long been neglected and there is a pressing need for a Woodland Management Plan to be implemented to ensure the long term health and survival of these trees. This can be achieved as a consequence of development on the site. The scheme originally included a number of trees for felling which has been reduced following negotiations and 'tweaking' of the layout.

These are a group of Ash trees, which are an important part of the woodland screening the scheme from Babbacombe Road and which are key in views from the path to Walls Hill SAM/SSSI. They were to be lost to car parking but re-arrangement of the car parking layout allows two of the largest and most significant of these to be retained. Similarly, the loss of 2 substantial Holm Oaks on the boundary to the hotel site has now been amended to a crown lift and pruning.

However, there is a grade A Beech tree which is within the proposed building footprint and a grade A Corsican Pine which is close to the southernmost tip of the flats but has now been identified for retention.

The applicants were asked to assess whether the footprint could be amended to allow retention of the Beech tree and to give greater certainty about the future of the Pine but their response was that it would reduce the size of the flats to an unacceptable degree and affect the overall viability of the scheme. Replacement tree planting has been offered.

It is necessary therefore to balance the loss of a good tree against the wider benefits of the scheme. It is considered that, subject to the quality of the compensatory tree planting and in view of the wider benefits to the landscape in terms of the restoration of the gardens and the delivery of a Woodland Management Plan that the loss of this tree is an acceptable 'cost'.

In respect of the removal of trees within the hotel gardens to open up views, large inappropriate trees have become established which were not part of the original planned layout of the site and these do hem in the building and prevent appreciation of the parkland setting. Subject to clarification on detail this is considered to be acceptable and should form part of a Woodland Management Plan for the entire site. This can be secured by condition.

There is an ambition to restore the historic landscape and open up planned vistas across the site and towards the sea. This is very welcome and detailed proposals have been put forward for a comprehensive garden restoration programme. This needs to be developed in tandem with a Woodland Management Plan and to include native planting that will help meet the biodiversity objectives outlined in Natural England's advice.

As such the scheme satisfies policies LS, L2 L3 L5, L8 and L9 of the Adopted Local Plan.

5. Impact on Walls Hill SAM/SSSI

Walls Hill is a Scheduled Ancient Monument and designated SSSI. It is important from an archaeological perspective due to the surviving Late Bronze Age/ Early Iron Age prehistoric field system which is of national significance. It is a designated SSSI due to the calcareous grassland. It is necessary to consider the impact of the building on the setting of the SAM and the impact on the archaeological resource and the calcareous grassland arising from increased footfall.

English Heritage's principal concern is the impact on the setting of the SAM. The existing Palace buildings are not visible from Walls Hill except from the footpath which leads to Walls Hill from Babbacombe Road. The applicants have supplied confirmation of this relationship.

The highest point of the new development is the tower to the hotel. This achieves a height of 77.8m OD. The measured height of the footpath across Walls Hill is 79.2m OD. The difference in levels between the 2 sites is such that the structures will not be seen. In addition to the level difference, a substantial belt of protected woodland offers screening to an additional height of several metres. This will be supplemented and reinforced through the Woodland Management Plan. It is important however, that the rear elevation of the flat building is designed to blend with the woodland character and the use of recessive materials/colours is to be secured by condition.

The impact of increased footfall on the archaeological features of the site and on the quality of the grassland does require mitigation. It is defined as being at High Risk on the EH Heritage Risk Register with a main risk factor being the erosion of earth works by walkers. Specific mitigation measures are required which are listed in EH response and these should be included in a Heritage Conservation Management Plan.

Similarly the increase in walkers and specifically dog walkers will have an adverse impact on the calcareous grassland.

The EIA recommends that a contribution be paid to fund installation and long term maintenance of 4 additional dog waste bins and the display of a minimum of 4 interpretative boards which explains the significance of the grasslands and the importance of clearing up after dogs. It also recommends a contribution towards a fencing and grazing project to enhance the grasslands.

The requirements of both EH and Natural England overlap and a Conservation and Ecology Management Plan to deliver a robust and comprehensive approach to dealing with the impact of additional footfall should be drawn up. This will require inclusion in the s106.

Further discussion is needed on the mechanics of this but there will be a need for a revenue commitment to ensure that the dog bin emptying and grazing is funded over a long term period.

Natural England and English Heritage support this suggestion and agree that it will overcome concerns about impact on the SAM/SSSI and will thus satisfy policies NC2 and BE9 of the Adopted Local plan and the relevant provisions of the NPPF.

6. The impact on Ecology

An Ecological Impact Assessment was required to fully assess the impact of the development on the ecology of the site as it includes part of the Hopes Nose to Walls Hill SSSI, a statutory nature conservation site designated for its botanically rich habitats with geological interest and the Asheldon Copse site of wildlife interest which includes part of the site of the proposed flats.

The woodland is of moderate to high ecological value and in terms of protected or notable species, there is evidence of bats occupying parts of the hotel building for non-maternity summer roosts and using the wooded corridor along the northern and eastern part of the site for foraging and navigation. The purpose of the study is to determine the degree of impact on wildlife and whether there is mitigation that can overcome any identified impact.

A number of suggestions are made about how the site can be developed to reduce direct impact and how it can be managed in the future to improve biodiversity and enhance the wildlife potential of the site. These can either take the form of planning conditions or long term management strategies. The EIA includes suggested conditions and a LEMP (Landscape and Environmental Management Plan) is recommended for future management of the woodland outside the SSSI. Natural England have confirmed that they have no objection to the scheme subject to these measures being secured.

The scheme thus accords with policies NCS, NC2, NC3, NC4 and NC5 of the Adopted Local Plan and the relevant provisions of the NPPF.

7. The Impact on Highways

The adequacy of onsite parking provision and the threat of overspill parking onto nearby streets is the main issue of concern to local residents.

The proposed flats are provided with 205 spaces and each flat will have an allocated space with a bank of 68 spaces that will be shared. This equates to a ratio of around 1.5 space per unit which is compliant with the Local Plan and is considered acceptable given the character of the site, its proximity to local services such as shops and schools and the convenience of public transport links.

The hotel is set to increase its number of bedrooms from 141 to 170 and to increase the range and attractiveness of the onsite facilities.

The current proposal provides for 145 spaces on the frontage of the site and in the redeveloped garage block to serve the hotel. According to data in the TA, there are currently 136 spaces, spread across the 2 sites to serve the hotel. This represents a slight increase in the number of spaces available to meet the needs of future customers arising from this scheme.

Whilst policy T25 of the Local Plan suggests a parking ratio of 1 space per letting bedroom, the guidance confirms that the LPA will have 'regard to the location of the hotel and its setting'. Roadside car parking along Babbacombe Road is freely available to cater for busier times. The hotel is also convenient for local services and well served by public transport which should mitigate the need for additional onsite car parking

A Travel Plan has been submitted which will explore the use of other more sustainable means of accessing the site by foot, cycle and public transport. Money derived from the S106 will be spent on upgrading local footpaths, improving cycling and bus provision which will further enhance more sustainable movement and help overcome a reliance on car parking.

In terms of junction capacity, the TA confirms that, based on its trip surveys, the junction is able to deal with the proposed traffic flows.

In terms of servicing, concerns have been raised by local residents about how practical the access arrangements for the flats are for larger vehicles such as removal vans and refuse vehicles. The Traffic Consultants have supplied tracking information to confirm that the site can be properly serviced.

Highways have not raised any objection to the scheme and have only asked for additional detail in relation to junction design and access to the Public Highway.

As such the scheme complies with Local Plan policies T1, as it is conveniently located for public transport and local services and as such encourages access by other modes of transport, T2 as it promotes a hierarchy of more sustainable means of accessing the site, T25 in that sufficient car parking is provided and T26 in that the access from the site to the highway is acceptable.

8. The benefits to the local area

There are clear economic benefits arising from the enhancements to the tourism offer, increase in jobs and increased tourist spend.

There are also tangible local benefits in terms of S106 requirements.

The SPD 'Planning Contributions and Affordable Housing' suggests that a scheme of this scale should deliver 30% on site Affordable Housing contributions and community infrastructure contributions amounting to £820,092 as illustrated below. Mitigation for job creation reduces this sum to around £700,000.

Waste Management (Site Acceptability)	£ 6,850.00	£ 6,507.50
Sustainable Transport (Sustainable Development)	£349,301.67	£331,836.58
Stronger Communities (Sustainable Development)	£ 0.00	£ 0.00
Lifelong Learning (Sustainable Development)	£ 15,031.67	£ 14,280.08
Greenspace & Recreation (Sustainable Development)	£270,561.67	£257,033.58
South Devon Link Road	£139,295.00	£132,330.25
Total	£781,040.00	£741,988.00
Administration charge (5%)	£ 39,052.00	£ 37,099.40
Total with Admin Charge	£820,092.00	£779,087.40

An IVA has been submitted which offers, based on the viability of the scheme, a £1.37 million 'off site' AH contribution and £411,000 community infrastructure contributions.

The AH Manager has commented that there is currently no justification for offsite provision and that the offer represents the equivalent of a 10% AH contribution. In terms of the community infrastructure contributions there is a shortfall of £283,000.

This needs to be justified but it must also be borne in mind that the residential accommodation is 'enabling development' to secure the future of the hotel and any shortfall should be balanced against the economic benefits that will arise from a substantially upgraded hotel.

Negotiation is needed to establish an acceptable level of contribution and progress will be reported verbally. Deferred contributions could be considered to provide some additional benefit to the area in the event that the scheme is more profitable than anticipated.

A tentative Master Plan has been submitted with the scheme which shows in broad terms how the agreed level of S106 investment might be spent in the local area.

There is a need for investment in the important coastal paths that surround the hotel site, in improving Ansteys Cove and Redgate Beach.

The reopening of access to Redgate Beach is a clear possibility subject to geological surveys. There is also a need for a range of works to improve Walls Hill SSSI. Various cycling, bus and public footpath improvements are also suggested by Highways.

Similar improvements were secured in relation to the earlier holiday flat scheme. This application will allow more substantial improvements to be carried out and the Wellswood and Community Partnership are interested in being involved in decisions about how this money might best be invested in the local area.

The Master Plan also explores how future investment in the hotel might lead to lodge development within the grounds which may be of further benefit to the local economy.

9. The deliverability of the complete package of development

It is vital that the S106 is structured to ensure delivery of the improvements to the hotel. The applicants have stated that their priority is to move the hotel restoration forward. Whilst there may be a possibility of external funding which would allow the works to the hotel to be carried out 'up front' it is necessary to agree a fall back mechanism in the S106 to ensure that the hotel restoration is tied to key stages in the construction/ or occupation of the flats.

Based on the calculated investment of £16 million to restore the hotel, it is proposed to allow the construction of the car park deck along with 35 flats. This will comprise the most southerly block. The sales receipts from this will be invested in restoring a third of the hotel.

A second tranche of 35 flats will then be constructed and sold and the receipts invested in delivering the second third of the hotel. A further 35 flats will then be constructed and sold to fund the final part of the hotel restoration.

This will leave 30 flats in the fourth block which cannot be occupied until the hotel works are fully complete.

Safeguards such as the use of bonds, or not allowing any works to proceed on any subsequent block of flats until contracts are let for the hotel works are being explored. Progress on this will be reported verbally.

The programme of works is likely to be spread over several years if it relies on sufficient sales being achieved before works to the hotel can be carried out. However, it is difficult to see how this can be avoided if the funding has to be generated from onsite sales. However, this is a worst case scenario and there is a likelihood of funding being achieved to accelerate the process.

Conclusions

The existing hotel has seen better days. It is in need of substantial investment if it is to be fit for purpose and provide a high end tourist destination which it has the potential to do. The benefits to the local economy in terms of jobs and spin off spend are significant.

The quality of the scheme and the enhanced range of facilities, including improved restaurant facilities, new spa and leisure facilities, conference and entertainment facilities will be a pull for tourists and locals alike.

Failure to achieve investment will result in this building becoming more dilapidated, less able to compete and further its slide to the bottom of the rankings.

The key to revitalising the hotel is the development of the tennis court site for private residential flats. It is not considered that this will undermine the function of the site for holiday purposes.

The design of the scheme is well considered and appropriate and has much improved through ongoing negotiation and input from the DRP.

The site is of value for its wildlife and landscape qualities. These are protected and through Woodland Management Plans, Garden Restoration Proposals and a LEMP that will offer full mitigation and secure a more robust future for the ecological and landscape aspects of the site.

The setting of the adjacent SAM is unaffected and a Conservation and Ecology Management Plan will be secured to ensure that this 'at risk' archaeological resource is properly protected. The SSSI will be improved in terms of management of the calcareous grassland and the impact of walkers mitigated.

There are some matters still to be resolved in relation to the level of AH and Community Infrastructure Contribution and the detail of the S106 mechanism to ensure delivery of the finished hotel.

Subject to a satisfactory response on these matters it is recommended that approval be granted subject to:

- A. Site visit.
- B. Conclusion of a S106 agreement, at the applicant's expense within 3 months of the date of this decision to secure i) Details of a mechanism to ensure a staged relationship between the construction of the proposed flats and the delivery of the hotel refurbishment including safeguards in relation to letting of contracts, bonds, etc (as appropriate) and restrictions on occupation of the final tranche of 30 flats until hotel restoration fully complete. ii) Payment of the agreed AH and community infrastructure contributions and iii) improvements to the Walls Hill SAM/ SSSI via a Conservation and Ecological Management Plan.

Condition(s)/Reason(s)

- Large Scale details of both buildings and including vehicular access to car park and junction design.
- Materials.
- Tree Protection/supervision.
- Additional details regarding landscape proposals/replacement tree planting .

- Woodland Management Plan.
- Landscape and Ecological Management Plan (LEMP).
- Conservation Management Plan.
- Construction Management Plan.
- Ecological Method Statement re mitigation during construction and post construction enhancements to ensure that EIA recommendations secured.
- Implementation and Review of Travel Plan
- Detail of Land Contamination and survey of buildings proposed for demolition.
- Details of surface water disposal to accord with FRA.
- Implementation of energy efficiency measures.
- Waste Audit
- Waste strategy for domestic and commercial uses.

Agenda Item 9

Application Number

P/2014/0030

Site Address

The Pines
78 St Marychurch Road
Torquay
Devon
TQ1 3HG

Case Officer

Mrs Ruth Robinson

Ward

St Marychurch

Executive Summary/Key Outcomes

This application for the construction of 14 flats on The Pines, St Marychurch Road was considered by DMC at its meeting of the 10th February. The officer report is attached as appendix 1. The application was deferred for further consideration of the following matters:

Parking
Boundary treatment
Design and Impact on properties to the rear
Trees/ landscaping
Access
Level of community infrastructure contributions/s106

Parking

The scheme is for 14 flats and contained parking for 14 vehicles which is the same ratio as the outline approval, P/2011/0552). However, the lack of visitor spaces was raised as a particular matter of concern in consultation and the committee requested further investigation of this matter.

The applicants have been asked to investigate whether more visitor spaces could be identified. Moving the building closer to the TPO trees would have allowed the inclusion of 2 additional spaces but the proximity of the building to protected trees would have led to pressure to fell.

Retention of the building in its existing position, and relocation of the bin store does allow the creation of one additional space. It is not possible to identify any further spaces mainly due to the levels across the site and the need to safeguard trees.

It is considered that the increase in one space is beneficial and in view of the extant permission which only has a 1:1 ratio of car parking a refusal of permission on the grounds of inadequate parking levels would be difficult to defend.

The site is on a route well served by buses and is within easy walking distance of local shops and services and so is not contrary to local plan car parking standards.

Boundary Treatment

The site is bounded by stone walls in poor repair and Members were anxious to ensure that these were repaired. The applicants have confirmed that the walls have been surveyed and they are to be repaired and reinstated. This can be secured by condition. Advance boundary planting is recommended to ensure that screening is quickly established to help secure privacy between this and adjoining sites. The applicants are agreeable to advance planting.

Design and Impact on Properties to Rear

Members were concerned that the design was bland and that the impact on the properties to the rear should be mitigated. In response, the applicants have agreed to introduce full width balconies to the front elevation which adds significant visual interest and breaks up the façade. It also improves the overall amenity of the flats. Access to the gardens from the flats has also been improved as a result of changes to the layout.

In terms of the impact on the properties to the rear, the fenestration has been modified by replacing the full height windows with Juliette balconies with smaller windows on the central part of the rear elevation.

This does improve the relationship particularly when coupled with the repairs to the boundary walls and the advance boundary planting which will in time secure improved privacy for the residents of Studely Road. Again, this relationship is similar to that which would have resulted from pursuance of the extant outline permission. This makes a refusal of permission difficult to defend.

Trees/Landscaping

Members were concerned that some trees appeared to be damaged and required some confirmation regarding advance planting. The tree in question was felled during demolition, was not protected and was too close to the building to have survived demolition or redevelopment. In terms of advance planting, the applicants are agreeable to this and this can be secured by condition.

Access

The existing access is to be widened as requested by Highways officers and this will not unduly impact on protected trees. Appropriate detailing of the revised access can be secured by condition.

Level of community infrastructure contributions/s106

To accord with the SPD 'Planning Contributions and Affordable Housing' the developer contribution should amount to £58,000 rather than the £20,000 currently offered.

An IVO has been submitted which has been checked by TDA Officers. This concluded that a greater interrogation of the purchase price and build costs should be undertaken to establish whether the applicants concerns about viability were justified.

The applicants have reconfirmed that, in their opinion, the scheme does not generate any surplus profit that would allow any additional money to be paid. They are reluctant to consider deferred payments but this would seem a sensible way forward.

The applicants contend that the improvements to the appearance and form of the building, particularly the change from a traditional roof form to a more contemporary one have led to unforeseen construction costs. The introduction of balconies to the front elevation in response to Members concerns about its bland appearance are a further cost which they say will erode the already marginal viability. They have agreed to this change but look for some recognition of this in agreement to a relaxation of the level of developer contribution. The progress on the additional interrogation of purchase price and construction costs will be reported verbally.

Officers remain of the opinion that the scheme is acceptable, but welcome the changes achieved as a result of the committee's concerns. These are the additional parking space, the improvements to the appearance of the front elevation and the reduction in the scale of fenestration to the rear elevation.

Recommendation

Conditional Approval; Subject to the conclusion of a S106 legal agreement to secure an agreed level of sustainable development contributions.

Conditions

Large scale architectural details

Samples of materials

Tree protection during construction

Reinstatement of stone boundary walls

Advance boundary planting/ landscaping

Implementation of bins and bike storage

Details of widening of vehicular access (subject to tree investigation)