



Monday, 3 December 2012

## **DEVELOPMENT MANAGEMENT COMMITTEE**

**An adjourned meeting of the Development Management Committee  
will be held on**

**Tuesday, 11 December 2012  
commencing at 9.30 am**

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

### **Members of the Committee**

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Hill

Councillor Addis

Councillor Kingscote

Councillor Baldrey

Councillor Pentney

Councillor Barnby

Councillor Stockman

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

**Anne Mulholland, Town Hall, Castle Circus, Torquay, TQ1 3DR  
01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)



# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

## 1. **Apologies for absence**

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

## 2. **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.)

## 3. **Urgent Items**

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

4. **P/2012/1152/PA - Elberry Heights, 16 Stone Park, Paignton** (Pages 1 - 9)

Extend time limit - demolition of existing dwelling and erection of new dwelling - application P/2010/0039.

5. **P/2012/1095/PA - Annandale, 12 Belle Vue Road, Paignton** (Pages 10 - 15)

Formation of an additional residential coach house unit with amenity space and revised car parking layout.

6. **P/2011/0227/MPA - Shedden Hall Hotel, Shedden Hill Road, Torquay** (Pages 16 - 29)

Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking.

7. **P/2012/0846/PA - Land off Church Road to the Rear of 20 & 22 & Side Of 18A & 36 Church Road: Rear Of Cashabac & Sunnyhome & Homing, Jacks Lane, Barton, Torquay** (Pages 30 - 35)  
Formation of dwelling.
8. **P/2012/1155/PA - Dainton Self Store Ltd, Torre Station Yard, Newton Road, Torquay** (Pages 36 - 47)  
Change of use from B8 storage to C3 dwelling houses and formation 8 townhouses with 3 storeys and 3 bedrooms with integrated garages and off street parking and 1 single storey bungalow with 3 bedrooms with pedestrian access.
9. **P/2012/0630/PA - Westella, Tor Vale, Torquay** (Pages 48 - 51)  
Erection of 16no. 250W Solar Pv panels on A-Frames on residential garage roof of Westella.
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](mailto: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 December 2012. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

# Agenda Item 4

**Application Number**

P/2012/1152

**Site Address**

Elberry Heights  
16 Stone Park  
Paignton  
Devon  
TQ4 6HT

**Case Officer**

Mr Robert Pierce

**Ward**

Churston With Galmpton

**Description**

Extend time limit - demolition of existing dwelling and erection of new dwelling - application P/2010/0039

**Executive Summary/Key Outcomes**

Planning Approval P/2010/0039 was granted for a replacement dwelling on the site on 15th April 2010 by the Development Management Committee. This approval is extant and therefore commencement works for the approved replacement dwelling can still be carried out at any time up to 14th April 2013. This application is a re-submission of the previous scheme with no changes proposed.

In addition to assessing this application against relevant policies, it is also important to consider if there have been any material changes in circumstance which would warrant the LPA making a different decision to that previously reached, by the LPA planning Committee.

Since the date of the previous planning approval, the only material change in circumstance relevant is that the Government has introduced the National Planning Policy Framework (NPPF), while this does represent a material change, the policies of the Local Plan have been assessed against the NPPF and are deemed to be in compliance with the general aims of the NPPF. As such, it is officer opinion that there have been no material changes in circumstance that would alter the previous recommendation for conditional approval.

**Recommendation**

Site visit

**Summary Of Representations**

Numerous letters of objection have been received. The main thrust of these objections is that the new design will be out of keeping with the existing area,

over development of the site, would not sit well with adjacent properties, noise from building works, height of proposal, concerns over demolition and construction work, amount of increase in accommodation, overlooking, potential for subsidence, loss of light and general amenity to neighbours, overlooking and loss of privacy, concern about drainage and flooding, unsympathetic appearance, potential policy objections and scale of development. These have been reproduced and placed in the Members Room.

### **Relevant Planning History**

- P/2005/1362 Alterations, erection of first floor extension and raising of roof at 16 Stone Park. Refused 27/10/05 on the basis that the proposal would be detrimental to the character and appearance of the streetscene and the area and to the residential amenity of adjacent occupiers contrary to policies H15, BE1 and the Environmental Guide of the Torbay Local Plan.
- P/2005/1929 Alterations and erection of first floor extension and raising of roof (revised scheme). Refused 13/12/05 for similar reasons as per previous application with the addition of precedent arguments. However, this application was subsequently allowed on appeal.
- P/2010/0039 Demolition of existing dwelling and erection of new dwelling  
Approved 15/04/2010

### **Key Issues/Material Considerations**

The key issues in determining the previous application were considered to be the principle of re-development of this site, whether or not the proposed replacement dwelling was appropriate in relation to size, design, impact on neighbouring properties, impact on streetscene, car parking and policy considerations. These are the same considerations that are relevant to this application, with the addition as to whether there have been any material changes in circumstance.

In relation as to whether there have been any material changes in circumstance since the date of the previous planning approval, the Government has introduced the National Planning Policy Framework (NPPF), while this does represent a material change, the policies of the Local Plan have been assessed against the NPPF and are in general terms deemed to be in compliance with the general aims of the NPPF. As such since the assessment of the previous application against the relevant policies of the local plan, there have not any material changes in circumstance that would alter the previous recommendation for conditional approval.

**For members convenience the previous officer report is provided below, which considered the application against the relevant policies of the Saved Adopted Torbay Local Plan 1995-2011:**

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## Previous Planning Officer Report

### **Relevant Policies**

Saved Adopted Torbay Local Plan 1995-2011

- H9 Layout, Design and Community aspects
- H15 House Extensions
- BES Built Environment Strategy
- BE1 Design of New Development
- EPS Environmental Protection Strategy
- EP1 Energy Efficient Design
- EP11 Flood Control
- T25 Car Parking in New Developments

### **Proposals**

Permission is sought to demolish the existing dwelling on the site and replace it with a new single dwelling, that makes more effective use of the site, modernises the accommodation available, and updates and modernises facilities and the appearance of the dwelling. Accommodation is shown on 3 levels with the lower ground floor being mainly garaging, storage and utility areas. Accommodation at the ground and first floor levels would be obtained by building back towards the rockface which exists at the rear. The rear garden is at a much higher level and therefore, there would only be one level of accommodation visible at this point. The overall volume of accommodation available with this new proposal would be greater than that which currently exists, although a previous scheme for re-development which was allowed on appeal, did establish the principle of greater development at the site. The proposed new roof ridge level is for the most part, lower than the scheme allowed on appeal, although in its centre, it does reach, but not exceed the height of the appeal approved scheme. The proposal includes garaged and surface parking for vehicles at the front of the property.

### **Consultations**

None.

### **Representations**

The main thrust of these objections is that the new design will be out of keeping with the existing area, would not sit well with adjacent properties, noise from building works, height of proposal, concerns over demolition and construction

work, amount of increase in accommodation, overlooking, potential for subsidence, loss of light and general amenity to neighbours, unsympathetic appearance, potential policy objections and scale of development.

### **Key Issues/Material Considerations**

The primary consideration has to be the principle of re-development of this site. The curtilage currently has one single dwelling house upon it, and the proposal is to replace it with one single dwelling house. Therefore, in principle there can be no objection to the proposed use. In any event, it needs to be borne in mind that the appeal decision in October 2006 allowed alterations, erection of first floor extension and the raising of the roof at this property. That decision is still extant and capable of implementation. What that decision establishes is that a larger property with a higher roof can be achieved at the site. This current proposal is in fact an opportunity to improve the visual appearance of any new building at the site and the pertinent consideration will be how much extra volume and height is acceptable.

The next considerations will be therefore, whether or not the proposed replacement is appropriate. In this context, the considerations will be size, design, impact on neighbouring properties, impact on streetscene, car parking and policy considerations.

With regards to size, it is clear that the proposal seeks permission for a greater amount of accommodation at the site. However, it could only be concluded that the site was being overdeveloped if there was some identifiable harm to interests of acknowledged importance such as appearance in the streetscene or upon neighbours. Government advice is that Local Planning Authorities should seek to maximise the re-use of Brownfield and residential land in order to achieve more efficient use of land and reduce the pressure on Greenfield and countryside sites. This current proposal comes no further forward than the existing dwelling, would be no higher in its roof ridge than that which has been allowed on appeal, but would come marginally closer to properties on either side. On this basis, officers do not conclude that the size is so significantly in excess of what is acceptable to conclude that the site would be being overdeveloped. So long as the property remained as one residential unit, it is not considered that there would be an overdevelopment of the site.

The design of the property is perhaps the most contentious of all of the issues to be considered. This proposal is clearly for a modern design that takes little reference from the surrounding residential properties. However, there is no precedent in planning law or in generally agreed planning principles that states that properties have to respect, mimic or serve as pastiches to neighbouring dwellings. In the context of Conservation Areas or historic quarters of our towns and cities, there may be a desire to achieve a degree of uniformity and similarity. However, in a modern residential estate with no historic context, such principles would not hold strong planning weight. In order to construct a reason for refusal

based on design, it would have to be shown that the appearance of the property was so detrimental to visual amenity that it would be harmful to the environment. The fact that the proposal is for a modern dwelling that differs from the surrounding environment would not in itself do so. There is already a significant contrast in the estate between bungalows and houses and roof pitches and designs and the proposal would add one more piece of architectural variety to the environment. It is not considered therefore that the property would be so out of place that it should be refused for this reason alone. Indeed, variety can often add interest to the visual amenities of what could otherwise be seen as unattractive similarity and uniformity.

The impact that might arise from the proposal upon neighbouring properties, particularly those either side, is a relevant and valid consideration. The fact that the proposed dwelling is slightly wider need not in itself be a problem unless that extra width would lead to either loss of light or loss of privacy. As the land slopes down from Stone Park towards Lower Fowden, and the front of the property is to the north east such that most sunlight would come at the rear of the property, loss of light is not considered to be a difficulty that should result in refusal in this instance. Members may wish to give special concern to the amount of glazing shown on the side elevations, although it should be borne in mind that this is partly a response to accommodation at the back being formed within the rockface that exists at the rear.

The impact of the proposed new property on the streetscene is less clear. 16 Stone Park commands a prominent position within a sloping streetscene being one of the first properties in view when one enters the cul-de-sac off Lower Fowden. It is the officers view that a more dominant building acting as an attractive endpoint for the vista would be acceptable and probably an improvement on the existing and appeal situations. Fortunately, there is a variety of dwellings types within the locality with alterations having been made to many of them and therefore it would not look out of place to have a different design on this site. Although number 16 is in a row of bungalows, it is at the end, with the first of a row of dwellings presenting 2-storey elevations to the street on the uphill side. Number 16 is thus very much a transitional site which serves to link the 2 forms of dwellings. It is not considered that the proposal upsets this balance. In fact, it could be taken as a generator for positive change to enliven this 1960's residential estate. One of the more important elements in establishing fit within the streetscene will be the height of the proposed new roof and its ridgeline. There is already a congruent roof level established within the streetscene that follows the slope of the road. It is crucial that the roof ridge of the proposed dwelling does not protrude above any arbitrary line linking the roof ridges of the existing dwellings at number 17 and 15 either side. The submitted drawings show that this can be achieved. The highest point on the new roof appears to be some 1.3 metres below the ridge of number 15 and approximately 1.7 metres above the ridge at number 17. Datum levels have been submitted to verify this point. It is also noted that the front face of the proposed new dwelling does not



protrude forward of the existing building line so the proposal would not lead to an added prominence within the streetscene.

With regards to car parking issues, the proposal shows 2 car parking spaces within a garage at ground floor level and 2 surface parking areas in front of this. This is more than adequate to meet the Council's car parking standards.

Whether or not the proposal meets the test imposed by policies within the Saved Adopted Torbay Local Plan really depends upon ones views to the comments raised above. It is officers views that the proposal is not over-developing the site and that the design although different from surrounding properties is acceptable, therefore it is not considered that there would be a valid objection to Policy H9 of the Saved Adopted Local Plan. Policy H15 really concerns itself with house extensions, whereas this proposal is for a house re-build, nethertheless the principles are appropriate considerations in this instance. It is considered that the plot would not over develop the site and could be made to fit in with neighbouring properties without causing harm to amenity or through overlooking. On this basis, it is not considered that there can be a valid objection on the grounds of policy H15. The relevant policies in the Environmental Protection Section of the Saved Adopted Local Plan are policies which any new re-development would have to meet and this can be achieved. The proposal clearly meets the tests imposed by Policy T25 in respect of car parking. Whether or not the proposal meets the tests imposed by policies BES and BE1 in the built environment section of the Saved Adopted Local Plan is a somewhat subjective consideration. The proposal is clearly different and does seek approval for a house that neither replicates nor takes reference from immediate surrounding properties. It is the case though that this should not in itself be a reason for refusal, only if that difference leads to significant harm to interests of acknowledged importance. Officers have argued that this is not the case and therefore it is not concluded that there should be any objection based on policy BES or BE1. On the basis of all of these considerations therefore, it is not considered that there could be any valid objections to the proposal based on policy issues as identified in the saved Adopted Torbay Local Plan.

**Sustainability** - This proposal seeks the re-development of a Brownfield residential site, and therefore the proposal is highly sustainable meeting all the tests imposed by National and Local Policy Guidance. However, it is important to realise that such a high degree of sustainability should not necessarily take precedent over other issues of acknowledged planning importance.

**Crime and Disorder** – It follows that with such a highly designed and costly solution to the provision of additional accommodation at this site, the applicant will wish to place appropriate protection and security measures at the property. However, this will primarily be his responsibility rather than one which should concern the planning process. The proposal includes the ability to park vehicles within a secure garage and the property itself allows for plenty of surveillance to

minimise security risks.

**Disability Issues** - The garage is integral to the property although access through the building is by means of a stairwell. This however, is no different from any other multiple storied dwelling house and is not considered to be an issue that would bring the property foul of Part M of the Building Regulations.

### **Conclusions**

The chosen solution for the future residential use of this site is both bold, different and innovative. This however, need not in itself cause doubt about the acceptability of the scheme. In order to justify refusal, any proposal has to have identifiable harm to interests of acknowledged importance. In this instance, it is officers views that based on the scheme that was previously allowed on appeal for this site and an acceptance that Local Planning Authorities should be encouraging the maximisation and efficient use of Brownfield sites, it is officers opinions that any decision to refuse this application would not be sustainable on appeal. Nevertheless, the proposal clearly introduces a new design ethos into this residential estate and has caused much concern amongst neighbouring and surrounding residents. For this reason, it is suggested that Members visit the site in order to assess the considerations raised by this application for themselves.

### **End of Previous officer report**

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**S106/CIL** -  
Not applicable

### **Conclusions**

Despite the publication of the NPPF there are not considered by officers to be any material changes in circumstance that would warrant the refusal of the application since the original approval, as such the application is recommended for conditional approval.

### **Condition(s)/Reason(s)**

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

Reason To enable the Local Planning Authority to assess this element of the proposal, and ensure that the scheme is completed such that there will not be any adverse affect on any neighbouring property, and to ensure accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 –

2011).

02. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2008 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1 Classes A,B, C, E shall be carried out without the prior written consent of the Local Planning Authority.

Reason The site is small and in close proximity to neighbouring properties, and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and the area in general.

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

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

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

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

**Informative:**

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

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

Reason To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 – 2011).

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

Reason To enable the Local Planning Authority to fully assess the impact of the proposal and ensure a satisfactory form of development that is in keeping with the area and in accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 – 2011).

### **Informative(s)**

01. The proposed development has been assessed against the criteria of Policies H9, H15, BES, BE1, EPS, EP1, EP11 and T25 of the Saved Adopted Torbay Local Plan 1995 to 2011 and is considered to be an acceptable form of development.

### **Relevant Policies**

- 9 -

**Application Number**

P/2012/1095

**Site Address**

Annandale  
12 Belle Vue Road  
Paignton  
Devon  
TQ4 6ER

**Case Officer**

Mr Alexis Moran

**Ward**

Roundham With Hyde

**Description**

Formation of an additional residential coach house unit with amenity space and revised car parking layout

**Executive Summary/Key Outcomes**

The application seeks permission for the addition of a further residential coach house to the far north- west corner of the site and linked to a previously approved coach house (P/2008/1051) which has yet to be constructed.

The proposal, due to its size, siting, design and the proposed materials used in construction, is not considered to have a significant impact on the character and appearance of the conservation area or be detrimental to the privacy and amenity currently enjoyed by the occupiers of neighbouring properties.

The application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay, in order to make the development acceptable in planning terms. A planning contribution of £2020 will be required in this instance.

**Recommendation**

Approval

**Site Details**

The proposal site is land to the rear of "Annandale", 12 Belle Vue Road, Paignton. The original property has been extended to the side to form "Miramar" and has been converted into a number of flats. The site is within the Roundham and Paignton Harbour Conservation Area.

**Detailed Proposals**

The application seeks permission for the formation of an additional residential

coach house unit with amenity space and revised car parking layout to the far north-west corner of the plot and linked to the previously approved coach house P/2008/1051.

The coach house has been designed with a symmetrical appearance to be in keeping with the Conservation Area and will include a natural slate roof, stone faced walls and softwood windows.

### **Summary Of Consultation Responses**

*Highways Officer:* Highways raise no objection to this application; however, with the designated parking being situated away from the proposed development, it will require strict management to ensure that the parking is used correctly and that vehicles are not parked in unmarked areas to ensure all residents on this site can maintain access to their allocated parking and the entrance/exit to the site.

*Strategic Transportation:* Request an SPD contribution of £1260 (in line with the table found in Appendix 1 of Planning Contributions and Affordable Housing SPD Update 3) based on the creation of a new residential unit.

This contribution will support improvements to cycling links from the Goodrington area through to and along Paignton Sea Front, connecting with the wider National Cycle Network route in both directions.

*Senior Heritage and Conservation Officer :* No objection.

### **Summary Of Representations**

6 letters of objection have been received in respect of the proposed development and 1 letter of support has been received from the applicant. The following concerns have been raised by the objectors...

- Danger to users of the new dwelling from cars manoeuvring in the area
- Overdevelopment of site
- Sewerage/drainage concerns
- Parking/access concerns
- Loss of privacy.

These are re-produced at Page P.200.

Whilst issues of planning merit such as over development and privacy the majority of the issues raised by those objecting to the development are not raised in connection with the planning merit of the proposed dwelling.

### **Relevant Planning History**

ZP/2012/0261 Additional coach house type residential unit (No.2) & revised car parking facilities; Officer support given 03.07.2012.

P/2008/1051      Curtilage Of Annandale Belle Vue Road Construction of two storey detached dwelling; formation of car parking space; relocation of car parking spaces; Approved by Development Management Committee 22.09.2008.

**Key Issues/Material Considerations**

The key issues to consider in relation to this application are the impact it would have on the character and appearance of the streetscene and the amenity and privacy enjoyed by the occupiers of neighbouring properties.

*Housing policy*

Policy H2 promotes the provision of additional housing within the built environment in order to increase densities in areas where there is already good infrastructure provision. The proposal site lies within the built up area of Paignton and close to the town centre, local amenities and bus routes. As such the proposed dwelling would be in a sustainable location and would make good efficient use of brownfield land.

*Size/design/scale*

The proposed coach house has been designed to reflect a traditional appearance similar to other coach house style developments in the Conservation Area. The location of the dwelling is akin to that of the original coach house on the site and the size of the building will ensure that the site is not over developed. The proposed materials will be in keeping with the character of the Conservation Area with the use of natural slate roof tiles, sandstone walls and softwood windows.

*Privacy/Amenity*

The proposed dwelling is not considered to be detrimental to the neighbouring occupiers in terms of privacy or amenity, but it may be necessary for the two rooflights on the rear elevation of one of the units to be non-opening and obscure glazed. The addition of two properties in this location is not likely to result in significant additional noise and disturbance and the relationship is such that existing privacy will be protected.

*Parking/Access*

The proposal will include the provision of 9 spaces for a total of 9 units and a minimum of 2 further spaces for visitors and will therefore ensure there is sufficient parking to serve the proposed and existing accommodation.

**S106/CIL -**

The application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay, in order to make the development acceptable in planning terms.

In this instance, the SPD indicates that a financial contribution will be required. A calculation of the contribution, based on the type and size of development proposed and including any relevant mitigation, is provided below:

Waste Management :	£ 50
Sustainable Transport :	£1260
Greenspace :	£ 550
Lifelong Learning :	£ 160

**Total :** £2020

5% Discount for early payment at signing of S106

### **Conclusions**

The proposed building is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations

### **Condition(s)/Reason(s)**

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

- (i) eaves overhang;
- (ii) rain water goods;
- (iii) reveals, frame thicknesses and styles of opening to window/door openings;
- (iv) sub cills;
- (v) slating/tiling;
- (vi) soffits;
- (vii) roof lights

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

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard, in accordance with policies H2, H9, H10, BES, BE1 and BE5 of the saved adopted Torbay Local Plan (1995-2011).

02. Prior to the commencement of the development, hereby approved, details indicating the design and location of a secure bin store shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter, the bin store shall be completed and made available for use prior to the first occupation of the



dwelling and shall be so retained for the duration of the residential occupation of the building.

Reason: To secure appropriate service facilities for the development, in accordance with the terms and objectives of policy H9 of the saved adopted Torbay Local Plan (1995-2011).

03. Prior to the commencement of the development details indicating the design and location of secure cycle storage to serve the dwelling, hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle store shall then be completed and made available for use prior to the first occupation of the dwelling, and shall be so retained for the duration of the residential occupation of the dwelling.

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

04. Prior to the commencement of the development, a sample of the proposed roof slate and sandstone shall be submitted to and approved by the Local Planning Authority in writing.

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

05. The parking areas indicated on plan reference 1069.05 dated September 2012, shall be completed and made available prior to the first use of the dwelling, hereby approved.

Reason: In order to ensure that satisfactory provision is made for parking to serve the development, in accordance with policy T25 of the saved adopted Torbay Local Plan (1995-2011).

### **Informative(s)**

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

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

BES, BE1, BE5, H9, T25

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- BE5 Policy in conservation areas
- H9 Layout, and design and community aspects
- T25 Car parking in new development

**Application Number**

P/2011/0227

**Site Address**

Shedden Hall Hotel  
Shedden Hill Road  
Torquay  
Devon  
TQ2 5TX

**Case Officer**

Mrs Helen Addison

**Ward**

Tormohun

**Description**

Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking

**Executive Summary/Key Outcomes**

This application was conditionally approved subject to completion of a S106 agreement at the meeting of the Development Management Committee on 18.4.11. A variation of the S106 agreement was subsequently agreed at the meeting on 17.10.11, subject to the S106 agreement being completed by 17.11.11. As this time period has expired it is necessary for the application to be reconsidered by the Development Management Committee. The S106 agreement has now been virtually completed. An extension of time for a further 6 months is requested to provide time to ensure that the S106 agreement is finalised.

**Recommendation**

Subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 6 months of the date of this committee; Conditional Approval.

**Site Details**

The application site is the Shedden Hall Hotel which is a large Victorian property situated on the west side of Shedden Hill. The building has most recently been in use as a hotel, although it is understood to not be currently trading. It has been extensively extended in the past. It is situated at the back of the pavement and is a prominent building and clearly visible in the street scene. It is also visible in views across the site from the sea front. The original part of the building is a Victorian Villa.

Shedden Hill road slopes to the south past the site. The ground levels on the site also drop significantly to the west. The existing building appears as two storeys in height fronting Shedden Hill. Due to the changes in ground level on the site

accommodation is provided over four floors. There are extensions at both the north and south ends. There is a large mature Turkey Oak tree in the rear curtilage of the property.

The surrounding area is largely in commercial use. There are a number of hotels in the area. Land to the west is in use as a public car park. In the Torbay Local Plan 1995-2011 the site is shown as being within the Belgravia Conservation Area and within the PHAA (Principal Holiday Accommodation Area). The site falls within the amber area of the Council's recently adopted PHAA guidance where residential use may be permitted subject to consideration of viability and facilities.

### **Relevant Planning History**

Extensive previous planning history. Most recent application are as follows:

- 2010/0884 Conversion of hotel to 9 holiday apartments with owners accommodation and construction to 2 buildings to form 14 residential flats. Withdrawn 4.3.11.
- 2005/2079 White UPVC windows and French doors. Approved 31/1/2006.  
1996/1118 Demolition works in connection with alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996
- 1996/1117 Alterations and extensions at 3rd floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1996/1116 Alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1996/1115 Demolition works in connection with alterations and extensions at basement and ground floor level to form additional bedroom accommodation. Approved 16/12/1996.
- 1995/1115 Demolition of works in connection with erection of detached garage. Approved 23/11/1995.
- 1995/1114 Erection of detached garage. Approved 23/11/1995.

### **Relevant Policies**

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

- H2 Promotes sustainable forms of new development
- H6 Affordable housing will be secured on residential sites that meet the threshold requirements
- H9 Requires a high standard of design, taking into account characteristics of

- existing environment
- H10 Supports development at maximum densities
- H11 Open space requirements for new housing
- TU6 Changes of use that are detrimental to the character and function of the PHAA will not be permitted
- CF6 Requires appropriate contributions to provide social, physical or environmental infrastructure
- L9 Development will only be permitted where trees will not be harmed
- L10 Major development and landscaping
- EP1 Supports incorporating energy saving features into design and layout
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE2 Proposals for new buildings should incorporate landscaping as an integral part of the design
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- T2 Sets out a transport hierarchy for all new development
- T25 Maximum car parking standards are set out in the schedule
- T26 Requires a safe standard of access

Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan March 2010

### **Proposals**

The application is for the following:

- Conversion of the existing building into 7 residential dwellings. At ground and first floor 2 x two bedroom apartments are proposed. Two x 2 bedroom apartments both with studies would be formed over the lower ground and lower ground floor levels. The seventh unit would be formed to the north of the main building on part of the site where the existing building would be demolished. It would have two bedrooms and be split over the ground and first floors. As part of the proposal the following extensions to the building would be demolished; the large flat roof southern extension, the two storey northern extension, the flat roof extension on the south side of the building and an extension on the rear (west) of the building. The majority of the dwellings would be accessed from a new entrance that would be formed at the northern end of the building.
- Construction of a new detached 4 storey building to the south of the main building to form 4 residential dwellings. The proposed building would be sited adjacent to Shedden Hill Road. It would comprise two x 3 bedroom dwellings and one x 4 bed dwelling split over 3 levels and a three bedroom penthouse at roof level which would be accessed by a lift and stairs. Materials would be rendered walls with stone at lower ground floor level and lead effect roof.

- Construction of a 2 storey detached building at the rear of the main building to form three apartments. Two of these would be at ground floor level with the third apartment at first floor level. Materials would be rendered walls with a pitched slate roof.

Vehicular access to the site would remain in the same position. Sixteen parking spaces are shown at the rear of the site. The existing garden area within the site would be retained. The swimming pool is shown as being removed. The large mature Turkey Oak tree at the rear of the site would be retained.

The application is a resubmission of application reference 2010/0884 which was withdrawn. In comparison with this proposal the proposed use of the dwellings/apartments on the site has been revised to full residential use rather than a split residential/ holiday use and the design of the detached new building to the south of the main building has been significantly revised.

### **Consultations**

*Senior Transport Planner:* Consultation response awaited

*Highways:* require 1.5 parking spaces per dwelling, widening of the access with the footway crossing also being widened and a S106 contribution.

*Drainage and Structures:* Consultation response awaited

*Arboricultural Officer:* requests further detail of how the development will be managed around the oak tree.

*Conservation Officer:* Consultation response awaited.

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

*Drainage and Structures:* requests further information relating to drainage of surface water.

### **Representations**

One letter of objection received and reproduced at Page T.208 The following points are raised;

- Loss of fine views
- Impact on local area
- Loss of light
- Overdevelopment

### **Key Issues/Material Considerations**

The main issues are the principle of the loss of a holiday use from the site, the principle of the proposed development within the Conservation Area, the design of the proposed buildings and their impact on the appearance and character of the area, along with highways impact, trees issues and Section 106 obligations.

### **The principle of the proposed change of use of the site from a hotel to 14 residential dwellings**

The Council adopted revised guidance on PHAAs in March 2010. In this document the application site is identified as being within the 'amber' category and the guidance relevant to a 26 bedroom hotel advises "Residential use may be permitted, subject to consideration of facilities and viability". The guidance advises that amber areas retain a fair holiday character. For medium sized hotels "Changes of use to residential may be granted, subject to location, range of facilities, viability and other considerations".

In this case the site is reasonably well located for holiday use as it is close to the sea front and the town centre. There are good sea views from accommodation on the south side of the building. There are a number of properties in holiday use in the vicinity such as the adjoining Heritage Hotel, and the former Belgrave Hotel which is currently being extended.

It is noted that there is a need for investment in the property. In the design and access statement the agent advises that "the present hotel is suffering from dire lack of renovation, renewal and replacement. The building needs urgent maintenance, even the newer parts are suffering from neglect."

Under the previous proposal (2010/0884) the proposal was for a mixed holiday and residential use on the site. However, officers have concluded that it would be preferable in this instance in order to achieve the regeneration of the main villa and the regeneration of the site as a whole, for the site to be used entirely for residential purposes.

Due to the level of investment that would be needed to maintain the existing Victorian part of the building some residential use would be required on the site to generate income to invest in the main building. This would reduce the amount of holiday use on the site. As the site is in a mixed area it is considered that the loss of all holiday use would not have an adverse affect on the tourist character of the area or result in the loss of important facilities in the Bay.

In comparison with the Belgrave Hotel and Heritage Hotel the site is in a more marginal location without direct access to the seafront. The character of the surrounding area has less of a holiday influence. A number of alternative development schemes for the site have been discussed with officers over several years. It has been difficult to find a viable solution that enables the retention of some holiday use on the site, whilst providing the required improvements to the existing villa.

The current proposal for full residential use would provide a robust solution that would have a positive effect on the townscape of the area and is therefore considered to be the most appropriate approach to development and investment in the site.

On balance the benefits attributable to the development of the site outweigh concerns about the loss of a tourist related use.

### **The principle of the proposed development within the Conservation Area and design of buildings**

The proposal presents an opportunity to remove unsightly extensions that have been added in the past and therefore to improve the appearance of the original building. Extensive areas are proposed for demolition. These are modern additions that detract from the appearance of the original building and the removal of these would significantly improve its appearance.

The proposed new building to form 4 permanent residential apartments would be situated adjacent to Shedden Hill and would be clearly visible in the street scene. There are currently views of the sea from the road and the proposal would have some affect on these. The design and access statement identifies that the proposed building would be detached from the main building thereby creating punctuation to the street scene. The height of this building would be lower than the main building on the site, with the second floor accommodation set within a mansard roof. An elevation showing the scale and height of the proposed building relative to the existing building and the adjoining Heritage Hotel has been submitted. The appearance to Shedden Hill Road would reflect the main building through the use of a relatively simple rendered elevation on a single plane with sash windows.

The proposed building would constitute a significant scale of development on the site and would inevitably have some impact on the appearance and character of the Conservation Area. However, the proposal should be considered in conjunction with the proposed demolition of the southern wing of the building and the flat roof extensions to the main building, which would significantly improve the appearance of the building and constitute a positive improvement to the appearance and character of the Conservation Area.

The scale and design of the proposed pavilion that would accommodate 3 additional units of permanent residential accommodation would be subservient to the main building. It would be sited behind the main building and would barely be visible in the street scene. It would in part replace a two bedroom unit of accommodation on the west elevation that would be demolished. The design of the proposed pavilion would reflect the Victorian character of the main building on the site, although modern side hung windows are proposed. Materials would be rendered walls and a slate roof.



Limited detail of the proposed cottage at the northern end of the site has been submitted. There is some concern about the elevational treatment to Shedden Hill and this has been discussed with the agent.

### **Highways**

It is considered that the provision of on site parking on a one for one basis would be acceptable in this location. Additional off site parking is available in the nearby Shedden Hill car park and Lower Union Lane car park. Cycle parking has been included within the scheme.

In the design and access statement it is advised that the existing steep sloping access would be improved by turning the access road and raising the lower parking levels which would permit the gradient to be reduced.

The highways officer has requested the access to be widened with the footway crossing being widened to improve accessibility and a Section 106 contribution.

### **Trees**

There is a mature Turkey Oak tree on the site that is shown as being retained. The arboricultural officer has requested the submission of further information to clarify the relationship between the tree and the proposed Pavilion building. The applicant needs to demonstrate that the proposal wont result in future pressure to fell the tree because of its proximity to the proposed building and the affect of the tree on the residential amenity of the occupiers. He has also requested clarification of the sequence of building in the area around the tree, the finished material around the tree, details of drainage around the tree, a tree protection plan and suggested that timber posts be installed at the end of the adjacent parking area to prevent vehicle manoeuvring in the vicinity of the tree.

A condition will be needed to ensure that the tree is protected in accordance with the agreed details during construction. A landscaping condition would also be appropriate on a development of this scale to secure appropriate planting around the site.

### **Section 106 Contributions**

The proposal for the loss of a 26 bedroom hotel and formation of 14 permanent residential apartments would require the payment of Section 106 contributions in accordance with Policy CF6.

The number of units within the proposed development would fall below the threshold to require the provision of affordable housing under Policy H6. In accordance with the updated SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" the following contributions are required;

Waste Management	£ 650
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Stronger Communities	£ 2320
Lifelong Learning	£ 4970
Greenspace	£26530
Monitoring	£ 2800
<b>Total</b>	<b>£37270</b>

It is noted that a number of the units are of a substantial size in terms of floor area and consideration needs to be given to the fact that only 14 units have been provided on the site (below the threshold of 15 at which the need to provide affordable housing kicks in).

There are two ways in which additional units could be provided on this site. The first is to increase the bulk of building, this would not be an acceptable approach given that this scheme has been negotiated over several months following concerns raised about the height and bulk of building that was previously proposed.

The second option would be to sub-divide some of the units into smaller flatted accommodation in order to provide more than 14 units. This would be achievable in this case, given the size of some of the units. However, this would, in the opinion of officers, be a retrograde step, given the commitment in this case to large family units of accommodation and given the mix that has been achieved on this site.

There is a paucity of this type of accommodation in the vicinity, with many properties having been converted to small single bedroom flats and it is this larger family size of property that is in shortest supply on the housing market.

In order to ensure that, in the event one or more units apply for subdivision in the future, appropriate S106 contributions are paid for the provision of affordable housing it will be appropriate for the Council to control any subdivision through the S106 agreement. This would clarify through restrictive clauses that the site would be considered as a whole and that any sub-division of any of the units will effectively trigger affordable housing contributions, as the total number of units on the site would then be above the threshold of 15 or more. This would be applicable notwithstanding the ownership of the dwellings on the site. In addition a monitoring contribution is required as part of the S106 agreement to enable the use of the site and any potential sub-division to be monitored.

It should be considered that this scheme enables the demolition of the poor additions to the main villa and its restoration, these positive enhancements form part of the package in this case and would be less likely to come forward were the scheme to be required to provide affordable housing. It is considered that in this case the number of units and the mix of accommodation is appropriate for this site.

In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" no sustainable transport contribution would be required because the mitigation from the existing use as a 26 bedroom hotel with owners accommodation outweighs the transport impact of use of the site by 14 dwellings.

#### **UPDATE 18.4.11**

This application was considered at the meeting of the Development Management Committee on 21st March 2011. Members decided to approve the application subject to the Executive Head of Spatial Planning resolving issues relating to consultation responses, trees, design, schedule of works and S106 agreement.

The application was included on the agenda for the 21st March meeting although the consultation period did not expire until 1st April. A letter of objection has been received since the previous meeting and the points raised should be considered by Members. In addition following a meeting with the applicant it has become apparent that the works of improvement to the main building will not be carried out until all the new development is completed. It was originally requested that these works be carried out before the new development commenced, as the new development constitutes 'enabling' development which will allow investment in and improvement of the original villa. The applicant has explained that the income from the new development will be needed in the first instance to provide capital to invest in the original villa. In order to ensure that the investment in the building does occur this will need to be addressed in the S106 agreement. In a similar case at the Palace Hotel in Paignton a joint bank account was set up between the developer and the Council. This is likely to be an appropriate solution in this case, subject to advice from the Council's solicitor.

It appears that the property is not currently trading as a hotel and is in use as a House in Multiple Occupation (HIMO). The applicant has submitted an application for a HIMO licence to the Council in which it is stated that there are 24 letting units in the property and there are 27 people living there. The lawful use of the property is as a hotel and no planning permission has been granted for use as a HIMO. If the use continues as a HIMO for a continuous period in excess of 10 years without the Council serving an enforcement notice it could become the lawful use. There is a concern that a HIMO on this scale in this location would be inappropriate because of the impact that it would have on the appearance and character of the area. Therefore, officers recommend that an enforcement notice is served to require the use of the property as a HIMO to cease.

The applicant has also been requested to make a number of minor alterations to the design of the proposed development. Revised plans are awaited.

At the last meeting of the Development Management Committee Members were requested to agree that the S106 agreement should be signed by 23rd May in

order that the decision notice could be issued within the 13 week target date. It is likely that, given the complexity of the agreement, further time will be required to execute it. As such, it is suggested that this date should be extended to 6 months from the date of this committee meeting.

**Sustainability** - The proposal would result in development of a brown field site. It is located within walking distance of the town centre and is a sustainable location for residential development.

**Crime and Disorder** - Subject to the incorporation of normal crime prevention measures it is unlikely that there would be an increase in crime.

**Disability Issues** - The proposed block of 4 dwellings would include a lift. It is also proposed to install a lift into the main building.

### **Conclusions**

In conclusion, the Council's recently adopted guidance on PHAA's has provided increased flexibility in considering proposals relating to premises in holiday use. The site is in an "amber" area which allows residential use in appropriate circumstances.

In this case the proposal represents an opportunity to significantly improve the appearance of the existing building through the removal of largely unsympathetic extensions. The proposed development of two detached buildings in the curtilage of the property would retain the integrity and character of the main building and would be unlikely to harm the appearance and character of the area. In this instance, the loss of a tourism use from this site would not significantly harm the tourist industry in the locality. Subject to the receipt of satisfactory further information it is considered that the proposal would be consistent with the objectives of the policies in the Torbay Local Plan 1995-2011 and therefore would constitute an appropriate form of development in this location.

### **Condition(s)/Reason(s)**

01. The boundary wall to Shedden Hill shall be reinstated to a stone wall with cock and hen capping and any repairs shall be carried out in natural stone laid with a lime mortar as shown on plan reference 2074s/133A dated 21st February 2011 prior to the occupation of the dwellings in the existing building hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the area in accordance with Policies BES, BE1 and BE5 of the Torbay Local Plan 1995-2011.

02. Notwithstanding the details submitted in the planning application, prior to the commencement of any of the works hereby approved on the site a schedule

of all the works to be carried out to the main villa and details of the timing of these works and their implementation shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved schedule, unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the visual amenity of the area and in accordance with Policies BE1 and BE5 of the saved adopted Torbay Local Plan 1995-2011.

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

Reason; In the interests of visual amenity in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

04. The parking and cycle parking facilities shown on the approved plan shall be provided before the use of the dwellings hereby approved commences and thereafter used for no other purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason; To ensure that parking facilities will be available at all times to serve the premises, in accordance with Policy T25 of the Torbay Local Plan 1995-2011.

05. No development or other operations shall commence on site until the existing tree to be retained has been protected in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the erection of fencing for the protection of any retained tree before any equipment, machinery or materials are brought on to the site for the purposes of development or any other operations. The fencing shall be retained intact for the full duration of the development until all equipment, materials and surplus materials have been removed from the site. If the fencing is damaged all operations shall cease until it is repaired in accordance with the approved details. Nothing shall be stored or placed in any fenced area in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made without the written approval of the Local Planning Authority.

Reason; To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011.

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

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

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

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard in accordance with Policies BE1 and BE5 of the Torbay Local Plan 1995-2011.

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

Reason; In the interests of visual and residential amenity, in accordance with Policies BE1, BE5 and H9 of the Torbay Local Plan 1995-2011.

08. The dwellings hereby approved shall not be occupied until the areas for demolition shown on plan reference 20745/120A dated December 2010 have been demolished unless otherwise agreed in writing by the Local Planning Authority.

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

09. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

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

10. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. This

scheme shall include details of the size, species and positions or density of all trees and shrubs to be planted, and shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

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

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

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

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

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

13. Notwithstanding the provisions of Part 1, Article 3 Classes A,B,C,D and E of the Town and Country Planning (General Permitted Development) Order 2008 (or and Order revoking or re-enacting that Order with or without modification), the enlargement, improvement or alteration of any dwelling; the addition or alteration to its roof; the construction of a porch; or the construction of any structure within the curtilage shall not be allowed without the granting of a specific planning permission.

Reason; To safeguard the residential character of the area, in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

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

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

### **Relevant Policies**

- H2 New housing on unidentified sites
- H6 Affordable housing on unidentified sites
- H9 Layout, and design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- TU6 Principal Holiday Accommodation Areas
- CF6 Community infrastructure contributions
- L9 Planting and retention of trees
- L10 Major development and landscaping
- EP1 Energy efficient design
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- BE5 Policy in conservation areas
- T2 Transport hierarchy
- T25 Car parking in new development
- T26 Access from development on to the highway



# Agenda Item 7

## Application Number

P/2012/0846

## Site Address

Land Off Church Road To The Rear Of 20  
& 22 & Side Of 18A & 36 Church Road:  
Rear Of Cashabac & Sunnyhome &  
Homing  
Jacks Lane  
Barton  
Torquay  
Devon  
TQ2 8PN

## Case Officer

Mr Robert Pierce

## Ward

Watcombe

## Description

Formation of dwelling.

## Executive Summary/Key Outcomes

The proposed development site is a large plot of land and would be able to sustain a dwelling without having any adverse impact on the character and appearance of the Barton Conservation Area. The Highways Authority supports the proposal.

## Recommendation

Site visit : Approval.

## Site Details

This very roughly rectangular plot lies on the western side of Church Road, with traditional stone walling bounding its eastern 'corner', adjoining the lane approximately at the brow of the hill. Other boundaries are marked by trees and hedging on or just beyond the line of the site. The land is mainly overgrown grass, with a single remaining fruit tree to show the former use of the land as an orchard. A small number of derelict outbuildings are sited in the southern part of this 0.15 hectare plot.

Access to the site is via a narrow vehicular opening in the stone wall, finished in brick piers and a timber gate (damaged and now boarded shut) which is set back from the carriageway edge by some 2 metres. A triangle of un-surfaced land separates this access, and the gated driveway to the neighbouring dwelling

(Orchard Lodge) from the highway.

### **Detailed Proposals**

Permission is sought for the erection of a new dwelling sited to the rear of the plot. It would have an elongated footprint of single and two storey height. The existing entrance drive is to be utilised and from this a new drive is proposed leading to the garage and parking/turning area. The plans indicate a four bedroomed dwelling with utility accommodation and the garage set within the single storey element of the house. The application has been submitted as the result of pre-application discussions.

### **Summary Of Consultation Responses**

Highways Authority : The proposed access onto the highway makes use of the existing access to the parking area of No 36 Church Road, and although this is a sub-standard access in terms of visibility, the number of trips generated by one dwelling will not significantly increase danger on the highway as long as vehicles enter and exit the site in a forward gear, therefore highways would raise no objection.

Arboricultural Officer : The scheme is suitable for approval on arboricultural merit subject to certain points being addressed by way of pre-commencement conditions.

### **Summary Of Representations**

- Numerous Letters of objection received. Main thrust of the comments made are:
- Issues with access and visibility onto Church Road.
- Impact on local area.
- Not in keeping with local area.
- Over development
- Privacy/Overlooking
- Impact on trees and wildlife including bats

These letters have been re-produced at Page T.205.

### **Relevant Planning History**

97/1344/PA Full planning permission for the erection of four semi-detached dwellings. Refused 5/12/97, for reasons of unacceptable highway access and impact on the residential amenities and character and appearance of the conservation area. Appeal dismissed 29/9/98, based on highway grounds alone.

97/1346/CA Conservation Area Consent for the demolition of three redundant outbuildings. Granted 5/12/97.

P/2004/2017 4 Dwellings With Garages; Private Drive And Access To Church

Road Approved May 2005

### **Key Issues/Material Considerations**

#### *Impact on the character and appearance of the Conservation Area :*

The proposed dwelling has been sited to the rear of the plot, It will therefore not be visually prominent in the street scene and will help to maintain the open setting of the site within Church Road as referred to in the Conservation Appraisal. As the result of advise from the Conservation Officer the single storey element has been shortened in width and now only accommodates a single garage instead of double garage. This narrowing of the footprint is now considered appropriate for the setting.

#### *Impact on the amenities of the adjoining occupiers :*

The single storey element has been proposed where it fronts the neighbouring dwelling 18 A so as to reduce any overlooking impact and keep the main living areas in the two storey element further away. It is not therefore considered that the new dwelling would result in an unacceptable level of overlooking nor would it have an overbearing impact.

#### *Highways and Parking Issues :*

There is no highways objection to this proposal which makes adequate provision for off street car parking.

#### *Impact on trees on and wildlife the site:*

The arboricultural report that was submitted with the application has been assessed by the Council's Arboricultural Officer and subject to certain pre-commencement conditions the scheme is considered suitable for approval. Concern has been expressed that bats may be using the site in this respect a condition will be attached to the decision notice which will require the developer to undertake a bat survey to determine the potential for bats on the site and or the presence of bats.

### **Principle and Planning Policy -**

- HS Housing Strategy
- H2 New housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- CF2 Crime prevention
- CF6 Community infrastructure contributions
- CF7 Educational contributions
- L6 Urban green spaces
- L8 Protection of hedgerows, woodlands and other natural landscape features
- L9 Planting and retention of trees
- EPS Environmental Protection Strategy
- EP1 Energy efficient design

BES Built Environment Strategy  
BE1 Design of new development  
BE2 Landscaping and design  
BE5 Policy in Conservation Areas  
TS Land Use Transportation Strategy  
T1 Development accessibility  
T2 Transport hierarchy  
T25 Car parking in new development  
T26 Access from development onto the highway  
T27 Servicing

**S106/CIL -**

The amount of required developer contribution for this proposal has been calculated as follows :

Waste Management :	£ 50
Sustainable Transport :	£3,610
Education :	£1,660
Lifelong Learning :	£ 470
Greenspace and recreation :	£2,370
<b>Total</b>	<b>£8,160</b>

Less 5% for an up front payment £408

The agent confirmed that the applicant is willing to pay the contribution up-front.

**Conclusions**

The proposed dwelling has been sympathetically designed, it will sit quite comfortably within the site and will not have any adverse impact on the character or appearance of the Conservation Area.

**Condition(s)/Reason(s)**

01. The development hereby approved shall not commence until a bat survey has been carried out on the site which has subsequently been approved by the Local Planning Authority and if necessary a European Species Licence obtained.

Reason: To meet the criteria of Policy NC5 (Protected Species) and also to comply with the Wildlife and Countryside Act 1981 (As amended)

02. Prior to the development being occupied, or at such other time as may be agreed in writing by the Local Planning Authority, a sustainable drainage solution

such as a soakaway, shall be installed and the system should be maintained effective at all times thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off, in accordance with PPG25 “Development and Flood Risk” and policy EP11 of the Saved Adopted Torbay Local Plan 1995 – 2011.

03. The development hereby approved shall not commence until the following additional details have been submitted to and approved by the Local Planning Authority :

- a) A methodology to allow passage over the RPA of offsite Lime OS3.
- b) A schedule of arboricultural works
- c) A detailed landscaping plan which should pay particular importance upon screening trees and shrubs and appropriate replacement of all trees to be removed.

Reason: In the interests of the amenities of the area and to meet the criteria of Policy BE 2 of the Saved Adopted Torbay Local Plan 1995 to 2011.

04. The development hereby approved shall be carried out in full accordance with the contents of the approved arboricultural report dated 16th July 2012, its plans and methodologies and shall not involve any grade changes to the identified root protection areas.

Reason: To ensure that all existing trees on the site are adequately protected while development is in progress and to meet the criteria of Policy BE2 of the Saved Adopted Torbay Local Plan 1995 to 2011.

05. 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, which is the sooner, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the local area and in accordance with Policies BES, BE1 and H2 of the Saved Adopted Torbay Local Plan 1995 – 2011.

**Informative(s)**

01. The proposal has been assessed against the criteria of Policies, HS,H2,H9,H10,CF2,CF6,CF7,L6,L8,EPS,EP1,BES,BE2,BE5,TS,T1,T2,T25,T26, and T27 of the Saved Adopted Torbay Local Plan 1995 to 2011 and it is considered to be an acceptable form of development.

### **Relevant Policies**

HS	Housing Strategy
H2	New housing on unidentified sites
H9	Layout, and design and community aspects
H10	Housing densities
CF2	Crime prevention
CF6	Community infrastructure contributions
CF7	Educational contributions
L6	Urban green spaces
L8	Protection of hedgerows, woodlands and o
EPS	Environmental protection strategy
EP1	Energy efficient design
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
BE5	Policy in conservation areas
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development
T26	Access from development on to the highway
T27	Servicing

# Agenda Item 8

## Application Number

P/2012/1155

## Site Address

Dainton Self Store Ltd Torre Station Yard  
Newton Road  
Torquay  
Devon  
TQ2 5DD

## Case Officer

Mr John Burton

## Ward

Cockington With Chelston

## Description

Change of use from B8 storage to C3 dwelling houses and formation 8 townhouses with 3 storeys and 3 bedrooms with integrated garages and off street parking and 1 single storey bungalow with 3 bedrooms with pedestrian access

## Executive Summary/Key Outcomes

The application site and adjoining land in the same ownership has a B8 (storage or distributions) use permission, which has been implemented. The application site itself is at the margins of the storage use and other commercial/business uses that exist at Torre Station and so is not considered to be integral to the function and performance of the area's business prospects. The site has been untidy and under utilised for some time now and would benefit from being brought back into a good use.

Residential use is considered to be acceptable because the site is immediately adjacent to the long established residential development at Crownhill Rise. The proposed design is in keeping with local scale and appearance, and is shown to a high standard including thought having been given to energy efficiency. The proposal takes advantage of the ability to have a relatively high density of development, but still fits within national and local guidance in this respect. The development will provide the size and type of accommodation which is needed in the Torbay housing market.

It is not considered that the development would substantially prejudice the future development of the wider site, if this were proposed. In fact, the intended improvement of the access under the railway bridge will enhance the vehicular access to serve the site. In any event, it is not considered given the circumstances, that the development of this site could be held in abeyance given that there are no current plans or projects on the wider site and given the presumption in favour of sustainable development.

It is considered that there are no interests of acknowledged importance that

would be adversely impacted by this proposal, and issues which have arisen can be handled by use of conditions. The proposal qualifies for a Planning Obligation in order to defray the costs that would arise from the development.

### **Recommendations**

Site Visit; Conditional Approval (conditions at the end of the report); subject to the further views of the Environmental Health Officer (with respect to potential land contamination), and the successful signing of a Planning obligation under s106 of the Act within 3 months of the date of this committee meeting or the application be refused for lack of a s106 agreement.

### **Site details**

Site of approximately 0.23 hectares in size, accessed off Cleveland Road (a small access road off Avenue Road), immediately on the western side of the Newton Abbot/Paignton railway line. The land slopes from the east to the west of its width by approximately 3 metres.

The land is currently owned by Dainton Group Services Limited who acquired the land from Network Rail, but who reserved rights of access over part of the site. The land had previously been railway sidings. The Dainton Group also owns a lot of land to the north of this current application site, from where they currently operate a self-storage business. This business has been at this site since approximately 2003.

There is a narrow strip of land immediately due south of the site which is in the Council's ownership and links to the Rowcroft land further up. It is a green corridor that has been used as a footpath in the past, although has now been closed for some time and is currently overgrown. On the other side of this strip are the properties on Crownhill Rise.

The site is not within a designated Conservation area, but does lie adjacent to the Torre Conservation Area. Torre Station is a listed building, primarily for its historic connections with I. K. Brunel.

### **Detailed proposals**

Full planning permission is sought to change the use of this land from B8 storage use (as defined by the Town and Country Planning, Use Classes Order) to a C3 residential use, in order to facilitate the development of a terrace of 8 dwelling houses and a free-standing bungalow, making 9 units in total. The plans show the terrace to be 3 storey dwellings with integrated garaging and driveways at the front for additional car parking. The plans indicate a minimal amount of soft landscaping at the fronts of the dwellings, but each property would have rear gardens running down to the Council owned footpath behind.

The dwellings are shown arranged with a stepped terrace footprint, with the land cut and filled to negate the existing slope of the land. The material palette shows



predominantly rendered elevations with contrasting timber effect and plain pre-coloured fibre-cement panels, painted timber windows, and interlocking plain grey concrete tiles for roofing.

Access to the site is under the existing railway bridge and this will remain the case. Pedestrian access to the Crownhill Rise alley way in between nos. 8 and 9 is shown provided by a new foot and cycle path off Cleveland Road running down to the Council owned 'green corridor'. This new footway/Council footpath system would also provide access to the rear of the proposed properties. Access to the rear gardens from within the new dwellings themselves would be via the first floor living room (ground floor at the rear, first floor at the front, due to the level of the land).

The site would have close proximity to public transport links (buses and trains), and good access to local amenities and services.

### **Summary of consultation responses**

*Network Rail* Observations awaited.

*Highways Officer* No objections in principle, but would need to see the highway (Cleveland Road) improved to bring it up to adoptable standard.

*Strategic Transportation* No objections in principle. Seeks s106 monies to enable a cycle path to be formally provided down from the Rowcroft Land around this site and up to Avenue Road (as part of a wider Council scheme to eventually link the sea front to Torbay Hospital).

*Arboricultural Officer* The site contains no trees of merit and only smaller self set trees and scrub bound the site which offer little potential. There is a large TPO woodland to the north-west which does not form part of the proposal site and which will be unaffected by the proposed development.

*Environmental Health Officer (Community safety)* The site may contain underground storage tanks in situ associated with the former use of the land as a train sidings. A previous use as a coal merchant's depot also has the capacity to make the land contaminated. Therefore, the observations of the Environmental Health Officer regarding potential pollution and any required clean-up are required. These are still awaited.

### **Summary of representations**

Letters of representation have been received and are reproduced at page T.206. The gist of the comments made can be summarised as follows:-

- Objections to the footpath between the site and Crownhill Rise being re opened;

- Objection to the bungalow, believes this to be an additional dwelling to the previous proposal and as such would have greater traffic impact upon the junction with Avenue Road;
- Concerns that this proposal may lead to more applications by Dainton for housing at their Torre Station site;
- Will obscure views from properties in Crownhill Rise;
- Noise and light pollution during construction and afterwards;
- 3 storey nature of the proposal would impact upon privacy and light to the properties in Crownhill Rise;
- The comments made in the 'Statement of Community Involvement' are not an accurate reflection of neighbours' concerns
- Do not need any more families in this rural area;

### **Relevant planning history**

P/2011/1158	Change of use from B8 storage to C3 dwelling houses; formation of 10 town houses with 3 storeys and integrated garages and off street parking. Application eventually withdrawn by applicant due to on-going contractual difficulties with Network Rail - understood to now be resolved.
P/2008/0754	Removal of condition 2 (ref app no P/2008/0293/PA) re temporary permission for use of land for containerised self storage, Refused permission 26/06/2008 but allowed on appeal by decision notice dated 15/05/2009
P/2008/0293	Use of land for containerised self storage. Approved 16/04/2008 for a temporary period not exceeding 1 May 2013
P/2002/2014	Use of land for containerised self storage 20.02.2003 (condition 2 stating that the use shall be temporary up to 1 March 2004).

### **Key issues/material considerations**

#### **Principal and planning policy**

##### *Employment Land*

The land is zoned in the Saved Adopted Torbay Local Plan as being a Business Investment Area (policy E3.5), in which employment uses should be retained and developed. However there are no employment uses on this parcel of land or any of the Dainton Group land of which this is a part. Although there is a limited amount of management and security associated with the storage use, this cannot be considered to be an employment generator.

Policy E3 does go on to say that small scale warehousing uses (B8) will be

permitted in the Business Investment Areas, and the Council has authorised such a use at this site on a temporary basis. Attempts to make the containerised storage use permanent were resisted by the Council, but allowed on appeal (see Inspector's decision reproduced at page T.206). Therefore the site has little employment benefit, and it is difficult to see how this could be changed given that the site is in private ownership and operating a lawful B8 use. It therefore has to be concluded that it would be very difficult to enforce the terms of policy E3 on the current proposal site, without making a Compulsory Purchase Order. This is unlikely to be part of the Council's thinking.

### *Housing Policies*

In housing policy terms the proposal is clearly consistent with the aims of the housing chapter of the Saved Adopted Torbay Local Plan. There is no conflict with policy HS (Housing Strategy), because the proposal would be providing open market family housing of the type needed in Torbay, securing a balance between new housing and the protection of environmental quality, maximising the re-use of urban brownfield land, resulting from a sequential approach to housing provision.

Likewise, the proposal meets the terms of policy H2 (New housing on unidentified sites) because the proposal promotes sustainable development, contributes to the provision of a full range of house types, re-uses urban 'brownfield' land in a sequential and sustainable manner, has good public transport accessibility, has good access to infrastructure and community provision, and promotes good design and energy efficient dwellings.

The proposal is also considered to be in accordance with policy H9 (Layout design and community aspects) because a strong emphasis has been given to the design of the new dwellings. The proposal does not breach the requirements of policy H10 (Housing densities) because it would be developed at a medium density (equivalent to 35 dwellings per hectare of land) but consistent with key environmental objectives. This is in accordance with National Planning Policy Framework. The scheme makes little provision for amenity open space, play areas, wildlife areas and landscaping in accordance with policy H11 (open space requirements). However this can be overcome through appropriate provisions within the Planning Obligation (under s106 of the Act).

The proposal will need to show compliance with policy CF6 (Community Infrastructure Contributions), but this can also be achieved.

### *Ecology*

A small portion of the proposal site in the east is part of a larger wildlife site. However, given the B8 use that could lawfully operate at the site, the nature of previous uses of the site, the fact that there is no evidence of any important species on site, the openness of the site, potential historic pollution at the site and the amount of hard surfacing within the site, it is not felt appropriate to invoke

policy NC3 (Locally important protected sites).

#### *Energy Efficiency*

The proposed dwellings have an energy efficient design (see 'Environmental Impacts' below) and so meet the terms of policy EP1. Although this site has a B8 permission controlling its use, it has not been used as such. The site used to be overgrown, was subject to fly tipping and has most recently been used for the storage of vehicles. It does still contain some remnants of former structures, and is generally in an untidy state. On this basis, the proposal would accord with the provisions of policy EP6 (derelict and under-used land).

#### *Contamination*

It is likely that the risk of the site being contaminated is low, and it is noted that there are residential properties in the immediate area (to the south) anyway. However, given previous uses for the site, the applicant has undertaken a desk top study and intrusive ground investigation to establish the likelihood of contamination and to suggest mitigation and remediation measures. This still needs to be checked and authorised by the Environmental Health Officer. His views will be reported to members in order to check compliance with policy EP7 (contaminated land) of the Saved Adopted Torbay Local Plan.

#### *Design*

The design and choice of materials is considered appropriate, providing a continuation of the design themes established in Crownhill Rise. Overall the scheme will enhance the existing character of the area. The design and appearance is typical of many developments throughout Torbay, but by adding colour and interest to the street scene will create its own sense of place. The site is not within a Conservation Area, and far enough removed from Torre Station itself so as not to impact upon the setting of this listed building. It is therefore considered that the proposal would meet the requirements of policies BES and BE1.

#### *Highways and Parking*

The proposal includes off-street parking to standard and has a suitable access, although this will need to be upgraded in accordance with the comments provided by the Highway Authority. It is noted that the Highway Authority is not objecting to the proposal and Strategic Transportation are in general agreement. It has been suggested that the proposal should be accompanied by a Planning Obligation that makes provision for a sustainable contribution to assist in improving local footpaths and cycle ways. With all of these factors in mind, it is concluded that the proposal would be in accordance with Transport and accessibility policies T3 (cycling), T10.1 (Torre Station transport interchange), T25 (car parking) and T26 (access).

#### *Impact on future opportunities*

This site was identified in the 'Action Framework Plan' supporting the previous

Mayor's Vision as a development site. It was seen very much as a gateway site for Torbay and remains as such in current thinking as the Local Plan and Neighbourhood Plans progress. It is not considered that this scheme would prejudice the potential for the redevelopment of the wider site for a mix of uses and in any event, given the presumption in favour of sustainable development set out in the NPPF, a refusal on that basis would be unlikely to succeed at appeal.

In conclusion, the proposal is not considered to be in breach of any of the relevant adopted policies and can therefore be considered to be acceptable in principle, notwithstanding the policy designation over the site.

### **Impact on neighbouring properties**

The southern elevation (rear) of the terraced properties proposed are only two storeys in height, plots 1 to 8 being more than 20 metres away from the nearest neighbouring houses in Crownhill Rise. The bungalow (plot 9) would be 12.5 metres away from the nearest part of the dwelling behind, but by its single storey nature has a lesser impact. This is considered to be acceptable in terms of potential for any overlooking and loss of amenity.

Some of the representations received have made objection on a perceived loss of outlook that would arise if this application were to be approved, but Members will be aware that no one individual or property has a right to a view in planning law. Whilst the general outlook will change, it is not considered, given the distances and relative heights involved, that the impact would be to the detriment of the living conditions of the adjacent occupiers. It should also be noted that the visual amenities of the site would be improved by the proposal, as currently the site consists of uneven ground covered in stone chippings and the remains of demolished buildings.

### **Economy**

Although the site benefits from planning permission for B8 storage use and more recently permission for containerised self storage use, this is a very low employment generator. The main containerised storage area of the Dainton Group is utilised by local businesses and so does impact obliquely upon employment and business. Furthermore, given the lawful consent that has been established, it is unlikely that the whole site would go to employment uses in the future and far more likely that a mix of appropriate uses would be established. The application site itself is subsidiary to the main trading and container site, storing vehicles and caravans. As such, it is considered that there are no implications to the economy of Torbay in converting this part of the wider site to residential use.

### **Environmental impacts**

The proposal is a redevelopment of a brownfield site currently consisting of uneven ground covered in stone chippings with the remains of some demolished buildings scattered around. This can be considered a sustainable solution to

fulfilling local housing need, and is certainly making full and effective use of urban land in a manner, that is sequentially more preferable to building on 'greenfield' land or countryside.

The proposed layout and configuration of the houses on the site with south facing gardens, living and bedroom spaces will help to improve the energy efficiency of the houses through natural solar gain and ventilation.

The application is accompanied by an 'Environmental Noise Statement'. This takes on board the proximity of the proposed dwellings to the Paignton/Newton Abbot railway line. The statement concludes that there could be some impact and so the design of the dwellings has been developed to take this into account as mitigation measures have been incorporated into the design. It is considered that these measures are sufficient to ensure that the amenity of any future residents will be protected and a good standard of acoustic environment can be delivered. This would meet with the terms of Saved Adopted Torbay Local Plan policy EP4 (Noise). However, its implementation will be largely down to the Building Regulations.

The site is not within an identified flood risk area.

### **Planning Obligation**

It is the Council's policy to seek appropriate financial contributions from developers under s106 of the Town and Country Planning Act 1990 and the legislative requirements of Part 11 of The Community Infrastructure Levy Regulations 2010, towards community infrastructure stemming directly from development and in terms of the resultant pressures on local social, physical and environmental infrastructure.

The Council has decided in line with Central Government legislation and advice from the (former) Government Office for the South West that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policies CFS, CF6 and CF7 of the Saved Adopted Torbay Local Plan. The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of last year (2011), and stipulates that contributions due for residential proposals are now based on floorspace to be created. The terraced units (P1 - P8) have a floor area of approx. 136.5 sq. metres and so would fit into category 5. The single storey bungalow has a floor area of approx. 77 sq. metres and so falls within category 3.

#### **Category 3 (75 – 94 Sq. M.)**

Municipal waste and recycling	£ 50
Sustainable transportation	£2350
Education	£ 830
Lifelong learning	£ 300

Green space and recreation	£2050
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<b>TOTAL (unit bungalow)</b>	<b>£5580</b>
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Category 5 (120 Sq. M. +)

Municipal waste and recycling	£ 50
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Sustainable transportation	£3610
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Education	£1660
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Lifelong learning	£ 470
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Green space and recreation	£2370
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<b>TOTAL £8160 x 8 units</b>	<b>£65280</b>
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This gives a total combined developer contribution of £70860.

However, the applicant would need to do a lot of off site works along Cleveland Road in order to make the access acceptable to the Highway Authority. The improvements to the access will provide improvements that will benefit the wider site and as such in practice these physical improvements will amount to both a site acceptability matter and an off site contribution to mitigate the transport impact of the development. Site acceptability measures are usually given precedence over other obligations and on this basis it is not felt appropriate to also charge a 'Sustainable Transportation' contribution.

This would bring the figure due down to £55230. Officers are also currently in negotiations with the Head of Schools Commissioning to see whether or not the education contribution is applicable. This could bring the amount down even further. It is important that the amount sought relates to actual requirements in order to prevent a successful challenge on appeal.

The Strategic Transportation Group have recommended that the 'Green Space/recreation' contribution should be used as a contribution to improve the adjacent National Cycle Route NCN28, which would eventually link Shiphay Lane along the path at the rear of the site to the town and beach via Avenue Road and Newton Road. Funding for the remainder of the NCN project will be from a mix of similar SPD contributions in areas local to the route supported by LTP funding and the Local Sustainable Transport Fund secured by this Council. It is in line with LTP Policy to improve cycle routes in the town centres, promote more sustainable travel and reduce reliance upon the car for site users. Focus has traditionally been on improving bus stops, infrastructure and services, however, this has been at the expense of cycling which now needs to be rectified, especially from the point of view of helping the tourist economy, improving the environment, and reducing traffic congestion. This particular scheme is also advantageous in terms of not affecting any parking and should be implemented within 5 years of receipt of funding. It is considered that in this instance, it would be appropriate to use the greenscpae contribution to improve this recreational

corridor.

### **Conclusions**

The proposal is considered acceptable in policy terms. The land is not used for employment purposes despite its zoning as a Business Investment Area, and the Council has little control over its future use given that it is in private ownership. The site is currently deleterious to the local environment and would benefit from investment and development. There are no wildlife or tree issues that would prevent development. The applicant has agreed to a Planning Obligation to defray costs that will arise from the proposal, this will include the provision of the cycle route to the side of the site, the improvement of the route to the rear of the site, off-site contributions and off-site highway improvements. The application will provide housing of the sort required by the local housing market. The proposal does therefore appear to be acceptable in principle, in policy and in detail. However, there have been a number of objections to the proposal and it is therefore appropriate for members to undertake a site visit to assess these concerns for themselves.

### **Condition(s)/Reason(s)**

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

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

02. The development hereby approved shall not be used or occupied until all of the garages, driveways shared surface parking zones and access thereto shown on the approved plans have been provided and made available for use. These areas shall be kept permanently available for parking and access purposes to serve the development at all times thereafter.

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

03. The development hereby permitted shall not commence until the applicant (or any future successors in title to the land) has entered into an agreement with the Highway Authority pursuant to s278 of the Highways Act 1980, providing for



resurfacing of Cleveland Road, an extension to the shared use path, a turning head, and other highways works required to make Cleveland Road adoptable. These works shall be provided in full and made available for use before any of the dwellings hereby granted permission are used or occupied.

Reason: The permission hereby granted would only be acceptable if Cleveland Road is made up to an adoptable standard in accordance with policies T1, T3, T20 and T27 of the Saved Adopted Torbay Local Plan. However, the land upon which these works would be required is not within the applicant's ownership. Therefore the Council requires assurance through the provisions of such a legal agreement that the works will be carried out.

04. Development shall not begin until a remediation statement to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The above statement shall include a report of the investigation and assessment work undertaken, identifying the extent of any contamination at the site and the measures to be taken to comply Part IIA Environmental Protection Act 1990. The development shall not be used or occupied until the measures approved in the statement have been implemented and the validation process has been completed.

Reason: To ensure that there is no risk from land contamination in accordance with EP7 of the Saved Adopted Torbay Local Plan.

05. Any activities that are likely to negatively impact upon the woody scrub at the site, particularly where involving vegetation clearance, should occur outside of the accepted bird nesting season (1st March to 30th September). If this is not practicable, activities should be preceded by a thorough inspection for nesting birds undertaken under an Ecological Watching Brief with a suitably qualified competent professional advising on the works on site and such clearance works shall only take place where there are no nesting birds present. If nesting birds are discovered, activities must be halted until nested chicks have fledged.

Reason: In order to avoid damage to any breeding bird or its nest thereby avoiding any potential conflict with the Wildlife and Countryside Act 1981, policy NC5 of the Saved Adopted Torbay Local Plan, and to accord with the findings of the 'Extended phase one habitat survey' (conducted for the site in August 2012).

### **Informative(s)**

01. The applicant is hereby reminded that he/she is responsible for any negotiations with Network Rail that may be required for works in the vicinity of the bridge. This must include assurances that permission to adopt any land as public highway is possible over a Network Rail easement. The bridge will at the very least need to be checked and signed with the height restriction.

## **Relevant Policies**

-

**Application Number**

P/2012/0630

**Site Address**

Westella  
Tor Vale  
Torquay  
Devon  
TQ1 4EB

**Case Officer**

Miss Alix Cathcart

**Ward**

Tormohun

**Description**

Erection of 16no. 250W Solar Pv panels on A-Frames on residential garage roof of Westella.

**Executive Summary/Key Outcomes**

The installation of solar panels is supported by Local Plan policy. The panels would be in the public view. It is considered that the impact of the proposal on the neighbouring property and on the wider public would not result in material detriment to amenity, sufficient to justify refusal of the proposal.

**Recommendation:**

Approval.

**Site Details:**

Semi detached Victorian villa on east side of Tor Vale, which is a cul de sac ending in Clarendon Close. The site of the application proposal is the flat roof of a double garage which has been constructed at the side of the property at its north west corner.

A site review meeting was held on 5 November 2012, attended by Councillor Excell, where the outcome was that the application should be determined under delegated powers, provided that screening, such as a parapet, was fixed at the side of the garage roof, to screen the panels from view from the objector's side. The applicant has declined to make this revision to the scheme, with the following response:

*"Erecting screening is likely to cause shadowing to the panels late in the afternoons/evenings and reduce the productivity of the panels (which is why they are being raised in the first place.*

*"A Parapet is likely to be caught by the wind, unless a more solid parapet is installed which is likely to add significant cost the Applicant's project.*

*"We feel that the main views from Clarendon are at the front and rear of the property and not at the side where there are bedroom views towards the proposal.*

*"As per Peter Robert's letter dated 5th November 2012 he considers the visual impact of raising the panels to be "limited", as do we.*

*"The Applicant feels that the request for screening to be erected in an area which is not a Greenbelt, Conservation Area, AONB or on or within the curtilage of a listed building is unreasonable and not a standard/expected mitigating measure for applications of this type outside of sensitive areas. In addition there are other solar panel installations on nearby properties and are therefore not completely alien to the area."*

The application is therefore being referred to the Development Management Committee for decision.

**Detailed Proposals:**

The fixing of solar panels at a raised, elevated, angle facing towards the south west. The solar panels have already been installed with the benefit of Permitted Development Rights, lying flat on the garage roof. Planning permission is required to raise them above 200mm from the surface of the roof. The submitted plan shows that the maximum height of each panel would be 0.72 of a metre.

Additional details have been provided by the applicant confirming the glare reducing properties of the cells which make up the panels.

**Consultation Responses:**

No comments.

**Representations:**

One letter of objection has been received from 5 Clarendon Close, the neighbouring property to the north. Points raise include:

- The panels, as installed, result in glare and an unsightly view.
- The panels will spoil the area
- Alternative siting possible
- Loss of value

This has been re-produced at Page T.207.

**Relevant Planning History:**

2012/0490 Installation of 16 250w Solar PV panels on flat roof and all associated works. Withdrawn, due to inaccurate plans.

**Key Issues/Material Considerations:**

The installation of solar panels is supported in principle by Policy EP2 Renewable Energy of the Local Plan. The main issues in this case are the impact of the development on residential amenity and on the character of the area.

It is acknowledged that the panels have an ungainly appearance and that their appearance from neighbouring houses, particularly to the north, would be unattractive. The issue is whether their size, siting and design is such that planning permission ought to be refused.

It is accepted that the panels need to be sited at an angle in order to perform their function, so requiring them to be laid flat is not considered to be a realistic option.

The panels are not considered to have an overbearing impact, the main issue is their ungainly appearance. While it is accepted that they would be in the public view, the number of neighbouring properties with views from their properties or on travelling along Tor Vale and Clarendon Close for the purposes of access would be relatively limited due to the cul de sac location.

Response to points raised by the objector:

The objections raised by the neighbouring occupier are understood. It is noted that their house is occupied as a single dwelling house, where the principal outlook is to front and rear with smaller windows facing to the side. While the objector considers that there may be potential for an alternative siting, the application falls to be determined as submitted. Loss of value is not a material planning consideration.

**Section 106/CIL:**

Not applicable.

**Conclusions:**

While concern of the objector regarding the visual appearance of the installation is acknowledged, there is a strong policy context supporting the installation of renewable energy systems. Given the relatively secluded location of the proposal, not on a main thoroughfare, it is considered that the harm to visual amenity is not so great as to warrant refusal of the proposal.

The applicant's reasons for not wishing to include a side screen in the scheme are considered to be reasonable and the proposal is supported as submitted.

Accordingly, the application is considered to reflect Local Plan policy criteria and is recommended for approval.

**Condition(s)/Reason(s)**

01. The PV panels hereby approved shall be removed when no longer required for the purpose for which they were installed.

Reason: In the interests of amenity and in accordance with the objectives of Policy H15 of the Saved Adopted Torbay Local Plan 1995-2011.

**Informative(s)**

01. Summary of reasons for the grant of permission: This proposal meets Local Plan policy criteria because of its size, siting and design. The scheme is appropriate in respect of its appearance and its impact on nearby residential occupiers.

**Relevant Policies**

EP2 Renewable energy  
H15 House extensions