



Thursday, 1 May 2014

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 12 May 2014

commencing at **2.00 pm**

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

Members of the Committee

The Membership of the Development Management will be determined at the Adjourned Annual Council meeting on 1 May 2014.

Working for a healthy, prosperous and happy Bay

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

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www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Appointment of Chairman**
To appoint a Chairman for the 2014/2015 Municipal Year.
2. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Minutes** (Pages 1 - 3)
To confirm as a correct record the Minutes of the meeting of this Committee held on 14 April 2014.
4. **Appointment of Vice-Chairman**
To appoint a Vice-Chairman for the 2014/2015 Municipal Year.
5. **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.)
6. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
7. **P/2014/0237/OA Meldon, Dartmouth Road, Brixham** (Pages 4 - 9)
Construction of 2 x 3 bedroom 2-storey bungalows (Re Submission of P/2014/0110).

8. **P/2014/0071/MRM Land West Of Brixham Road** (Pages 10 - 21)
Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197.
9. **P/2013/1204/PA 72 Primley Park, Paignton** (Pages 22 - 32)
Proposed new dwelling adjacent.
10. **Report on Highways Reason for Refusal - Application P/2013/0572** (Pages 33 - 36)
To consider a report on the above.
11. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
12. **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, 7 May 2014. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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



Minutes of the Development Management Committee

14 April 2014

-: Present :-

Councillor McPhail (Chairwoman)

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

(Also in attendance: Councillor Faulkner (A))

111. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Hytche instead of Councillor Brooksbank.

112. Minutes

The Minutes of the meeting of the Development Management Committee held on 10 April 2014 were confirmed as a correct record and signed by the Chairwoman.

113. P/2014/0160/RM - Former Day Nursery, Barum Close, Paignton

The Committee considered an application for approval of appearance, landscaping, layout, and scale in relation to construction of a pair of semi detached dwellings.

Prior to the meeting written representations were circulated to members.

Resolved:

Subject to the completion of a Section 106 Agreement in respect of waste management (site acceptability), education (sustainable development), lifelong learning (sustainable development), greenspace and recreation (sustainable development) and South Devon Link Road, approved with the condition set out in the submitted report.

114. P/2010/1080/MPA - Conway Court Hotel, Warren Road, Torquay

The Committee considered an application to construct 14 flats on the site of the former Conway Court Hotel, Warren Road, Torquay which had been considered by members on two previous occasions.

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

Resolved:

Subject to:

- (i) the completion of a Section 106 Agreement in respect of waste, sustainable transport, stronger communities, lifelong learning and greenspace being completed within three months of the date of this Committee or the application be refused for the lack of a Section 106 Agreement, and
- (ii) clarification of the acceptability of hit and miss timber screening and use of fibre cement board in place of zinc panelling;

approved with conditions relating to 1:20 details of key features, samples of materials, implementation of bike and bin storage, species and density details to supplement the conceptual landscape strategy for the site; and further investigative study of ground conditions to inform foundation design.

115. P/2014/0028/MPA - Burley Court Apartments, Wheatridge Lane, Torquay

The Committee considered an application for change of use of 13 apartments from holiday to residential use; including demolition of existing victorian bay on north east elevation and replacement with three storey bay extension and replacement of second floor vertical hanging tiles with a render finish.

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

Resolved:

Subject to the completion of a Section 106 Agreement before 30 April 2014 to secure deferred contributions or the application be refused for the lack of a Section 106 Agreement, approved with the conditions as detailed in the submitted report to ensure that the works are implemented in a phased manner, the detailed appearance is satisfactory and that bin and bike storage facilities are in place.

116. P/2014/0095/PA - Pine Lodge, Sladnor Park Road, Torquay

The Committee considered an application for the provision of a dwelling on adjacent land (resubmission of P/2013/0979).

Prior to the meeting, Members of the Development Management Committee undertook a site visit. In accordance with Standing Order B4, Councillor Alan Faulkner addressed the Committee in support of the application.

Resolved:

That the application be forwarded to the Council meeting for consideration as approving the application would be contrary to Torbay's Local Plan policy L4 and would impact on the special landscape character of the area contrary to policies L2 and L3 of the saved Adopted Local Plan.

117. P/2014/0193/PA - Princess Gardens, Off Torbay Road, Torquay

aThe Committee considered an application for Temporary erection and operation of a 50m observation wheel with ticket booking office to the west (front of wheel), adjoining coffee and crepe unit within a timber decked seating area to the south (facing out to the harbour) and secure panelled service, ride control and generator compound area to the east (pavilion side) March - October 2014.

Prior to the meeting, written representations were circulated to members. At the meeting Mr Tim Morris addressed the Committee against the application.

Resolved:

Approved with the conditions set out in the submitted report and the imposition of an additional condition requesting the applicant to submit, within two weeks of the date of this Committee, details of the vinyl's to be used on the pods with installation of the vinyl's to be undertaken within 4 weeks of the date of this Committee. The Committee resolved to add an informative responding to English Heritage's representation about future applications.

118. P/2014/0198/PA - Old Maids Perch, Shedden Hill Road, Torquay

The Committee considered an application for change of use from public open space to restaurant seating area to serve adjacent A3 restaurant use, maintaining existing public rights of way, and in association with external works

Prior to the meeting, written representations were circulated to members.

Resolved:

Five year temporary approval granted with a condition in respect of closing time of the terrace to be no later than 11pm and a informative in respect of the licensing obligations for the proposed use of the terrace.

119. Annual Spatial Planning Performance Report

The Senior Service Manager for Planning presented the submitted report.

Resolved:

The Committee noted the report and thanked officers from Spatial Planning for their continued hard work.

Chairwoman

Agenda Item 7

Application Number

P/2014/0237

Site Address

Meldon
Dartmouth Road
Brixham
Devon
TQ5 0LB

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Construction of 2 x 3 bedroom 2-storey bungalows (Re Submission of P/2014/0110)

Recommendation

Site Visit; Conditional Approval; Subject to completion of a S106 legal agreement, outline planning permission be granted with conditions as set out at the end of the report. The s106 to be completed and signed within 3 months of the date of this committee meeting or the application shall be refused for reasons of the lack of a s106 agreement.

Site Details

The site is situated within the curtilage of Meldon, a large detached property situated on the west side of Dartmouth Road, Brixham.

Detailed Proposals

The application seeks permission in outline for the construction of 2 bungalows with rooms in the roof. The application is to determine the suitability of;

- Access
- Layout
- Number of dwellings and footprint
- Ridge heights

Summary Of Consultation Responses

Highways Officer: No objection

Arboricultural Officer: No objection

Drainage Officer: A condition should be added to ensure details of infiltration tests and soakaway design are submitted

Natural England: No objection

Summary Of Representations

At the stage of writing this report two letters of objection have been received in relation to this application. The letters raise the following material planning

considerations;

- Out of keeping
- Loss of residential amenity
- Loss of privacy
- Loss of trees
- Drainage
- Over dominant

Given the officer's views and the representations made, the planning officer has negotiated a scheme which includes the reorientation of Plot 2 and moving it away from the boundary and removing the rear gable. In addition, Plot 1 has also been moved off of the boundary with 3 Manor Vale Road. These revisions have resulted in substantive improvements in the relationship between the existing and proposed dwellings. These representations have been copied and sent electronically for Members consideration.

Relevant Planning History

| | |
|--------------|---|
| P/2014/0110 | Construction of 3 no. three bedroom, two storey (room in roof) bungalows with associated driveways, gardens and amended access from Dartmouth Road - Withdrawn 18.03.2014 |
| DE/2013/0370 | Erection of 2 new dwellings- Officer support was given to the scheme 28.10.2013 |
| P/1991/1536 | Erection Of Two Detached Dwellings With Access Onto Dartmouth Road (In Outline) (As Revised By Plans Received 4Th February, 1992) - Approved 21.12.1994 |
| P/1991/0718 | Erection Of Two Detached Dwellings (In Outline) (As Revised By Plans Dated 30Th July 1991)- Refused 04.09.1991 |
| P/1988/1224 | Erection Of 2 Bungalows And Alterations To Access To Dartmouth Road (I N Outline)- Approved 08.02.1989 |

Key Issues/Material Considerations

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

The main issues to consider at outline stage are:

1. Principle of the development within the UPLA
2. Impact on highways - access
3. Impact on neighbouring living conditions

1. Principle

i) The site is located within a large plot and adjacent to the existing Meldon bungalow. There is sufficient space to provide two additional bungalows of the scale proposed in this application. From certain viewpoints in Manor Bend the ridge lines of the proposed bungalows are likely to be visible. However their addition to the streetscene is acceptable. The height of the proposed bungalows is to be no higher than the existing Meldon bungalow and they have been sited off of the boundaries and orientated in such a way as to minimise their impact on the streetscene from Manor Bend to the rear.

iii) It is considered that the layout, scale and number of dwellings is suitable in this location and would not result in an overdevelopment of the land or have a significant impact on the character and appearance of the streetscene. The plot sizes will be of an appropriate scale considering the locality.

2. Impact on Highways

i) The existing access to the highway is to be altered in order to provide a 2.4m x 70m visibility splay. This would satisfy the requirements of the Highways Officer and would provide an improvement to the existing access that serves Meldon. Consequently there is no highways objection to the scheme.

3. Impact on neighbouring living conditions

i) In relation to the impact on the neighbours it is considered that due to the difference in topography, the addition of the bungalow to "plot 2" was likely to have a degree of impact on nos. 1 & 3 Manor Bend prior to the submission of the revised plans. The revised orientation and siting limits this impact by setting the new dwelling further away from the boundary and through the removal of the rear gable. The removal of this gable leaves the outlook onto a single storey dwelling with its roof sloping away from the neighbour. It is therefore not considered that there would be unsatisfactory relationship between the buildings.

ii) The revised location of "Plot 1" is considered to have an acceptable impact on the residential amenity of the occupiers of 3 Manor Bend and will be well shielded by the existing boundary trees. Here the property has been moved even further from the boundary with No. 3 Manor Bend.

iii) The design of the bungalows is to be determined at Reserved Matters stage and it will be necessary to minimise the potential for overlooking from windows and rooflights.

S106/CIL -

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

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

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

This will be secured by means of a s106 legal agreement, which is to be completed and signed within 3 months of the date of this committee.

Conclusions

The proposed development 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. Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:(i) appearance (including materials for all external hard-surfaced areas);(ii) landscaping (including boundary treatment and all means of enclosure; b) The reserved matters shall be carried out as approved. c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced

Reason: To ensure that adequate information is available about the detailed nature of the proposals and in accordance with the objectives of Policies BES, BE1, BE2, H9 and H10 of the Saved Adopted Torbay Local Plan 1995-2011.

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

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

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

Reason; In the interests of the amenities of the area, and to accord with policies H10, BE1 and BE2 of the Torbay Local plan (1995 - 2011).

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

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

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

dwellings and maintained thereafter in accordance with the approved details.

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

06. No development shall take place until drawings of the cycle store(s) are submitted to and approved in writing by the Local Planning Authority. Notwithstanding the drawings listed under Condition P1, provision shall be made for the storage of 2 bicycles per property. The cycle store(s) shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings.

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

Relevant Policies

| | |
|-----|--|
| HS | Housing Strategy |
| H9 | Layout, and design and community aspects |
| H10 | Housing densities |
| BES | Built environment strategy |
| BE1 | Design of new development |
| BE2 | Landscaping and design |
| LS | Landscape strategy |

Application Number

P/2014/0071

Site Address

Land West Of Brixham Road

Case Officer

Mr Alistair Wagstaff

Ward

Goodrington With Roselands

Description

Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197

Executive Summary/Key Outcomes

The development of White Rock is one of the biggest developments in the Bay, potentially generating around 1200 jobs. Outline consent was granted in April 2013 for almost 37,000 sq meters employment space, 350 new homes and a local centre. Members will recall that residential development, within the eastern part of the site, pump primes and secures early delivery of employment space within the Western Bowl.

The Development Management Committee have already resolved to approve P/2013/1229 Reserved Matters for the appearance, landscaping, layout and scale of 310 dwellings and all associated road network, open space, and landscaping located in the eastern part of the White Rock development.

This application is for Reserved Matters for the appearance, landscaping, layout and scale of 38 dwellings and all associated road network, open space, and landscaping. It is located in the eastern part of the White Rock development directly adjoining the site of the approved 312 dwellings. The site is close to the Brixham Road and will in part front the main road and the new Junction being provided from the site on to the Brixham Road.

Implementation of the residential schemes triggers delivery of 20,000 sq ft of employment space in the 'Western Bowl', as well as making a significant contribution to the Council's 5 year housing land supply and will provide 70 affordable dwellings in total (8 from this application).

The proposed layout, scale and appearance of the scheme are considered acceptable in principle and will provide a high quality residential environment which knits in well to the larger reserved matters site. This continues the development of high quality new frontages on to the Brixham Road. At the time of writing this report two matters remain outstanding, these are detailed landscaping and the final external finishes of the buildings. Subject to a

satisfactory resolution to these two matters the development is considered acceptable.

Recommendation

Conditional Approval; delegation to the Director of Place to deal with revised drawings and landscaping.

Statutory Determination Period

13 Weeks 17th May 2014, the application will be determined within 13 weeks subject to the decision of the committee.

Site Details

This reserved matters application covers the edge of the 'eastern bowl' of the wider White Rock site. The area of the site is at present largely grassed scrubland and also contains a number of now vacant buildings due for demolition. A section of the site to the north-east adjoins Brixham Road where the new junction is to be located (approved at outline application stage) which is currently under construction. The site is relatively flat with a gentle rise southward.

Detailed Proposals

The proposal is for the construction of 38 dwellings with 8 to be affordable in accordance with the requirements of the Section 106 agreement secured as part of the Outline application. The proposed mix is 20 houses and 18 flats. The 18 flats are to be located in an 'L' shaped building which fronts on to the new junction on Brixham Road and will provide the principle access in to the residential element of the White Rock development.

There are two access points into the application site both located off of the first new access road to the wider site. The properties have been designed and orientated to front this road and to link with the wider site. The first access point serves 8 of the houses and the block of flats. The second access serves a further 6 houses which front on to the green space approved under the reserved matters application for 312 dwellings.

With the exception of the flats, the buildings are all two storeys in height and are a mix of detached, semi detached and a terrace of three properties. The appearance maintains the approach of the wider side with rendered properties with slate roofs, with a pepper potting of brick buildings. The block of flats is purpose designed to continue the high quality frontage to the main road with protruding sections and balconies. The corner point of the building rises from 2 to 3 storey with enlarged roof height to provide a defined corner feature to the site.

Summary Of Consultation Responses

Sport England: Do not wish to comment.

South West Water: No objection or comment.

Highways: The visibility triangle needs to be left clear of development and high landscaping vegetation. A 1m strip is to be retained in the narrower area of the triangle for a safety zone for future maintenance.

Highways have concerns that the road between plots 347 and 348 is too narrow at this stage, with no turning facility. It has been verbally agreed that a condition to introduce a temporary road calming feature to discourage access will resolve this matter until further development is brought forward.

South Hams: The red line is indicating a turning head and previous garaging into the open space, the red line should be redrawn to exclude these areas if this is undertaken we would raise no objection.

Police Architectural Liaison Officer: The access and movement throughout the development appears well defined, without compromising security by excessive permeability, The layout of the development by use of cul-de-sacs is a good design feature, Parking spaces for plots 315-332 will need to be allocated to prevent conflict over their use, the back to back gardens (i.e. plots 341 to 347) are a good design feature as they protect the vulnerable rears of properties. Gates to all rear access paths should be robustly constructed, lockable and fitted flush with the front building line to prevent recesses and hiding places. They should be the same height as boundary fencing (1.8m)

The communal entrance door to the flats must incorporate an access control system, A 'through the wall' mail delivery system into a secure internal letter box should be considered. Balconies at all levels should be designed to exclude eliminate the opportunity for climbing up, down or across between balconies.

The use of public open spaces (POS) should be clearly defined. The POS should have robust boundaries there should also be features to prevent unauthorised vehicular access.

Environmental Health: Having reviewed the Hoare Lee acoustic report we would make the following observations:

Prior to occupation the properties immediately adjacent to Brixham and the new junction the flats shall have daytime habitable rooms (including bedrooms) fitted with acoustic double glazing (openable) RW 36dB with Dn,e,w 39dB acoustic trickle vents. To meet the reasonable standard of BS 8233:1999 these windows will need to be kept in the closed position, and as such the premises should be fitted with mechanical exhaust ventilation if adequate ventilation cannot be achieved from other openings in the dwellings.

All other traffic noise affected dwellings shall have standard thermal double

glazing (openable) with Dn,e,w 39dB acoustic trickle vents.

Summary Of Representations

None Received.

Relevant Planning History

There is a significant history to the wider application site in general. However, the most pertinent history to this application is the outline approval:

- P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application). Approved. 21/02/2011
- P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development.

Key Issues/Material Considerations

1. Principle and Planning Policy
2. Outstanding matters landscaping, and external appearance flats
3. Layout
4. Appearance
5. Scale
6. Residential amenity
7. Parking, Waste and Recycling
8. Economy
9. EIA/HRA

1. Principle and Planning Policy -

Outline consent has already been granted for the mixed use development of the site. That application had an approved indicative layout scheme, which was the subject of extensive consultation. It was also subject to Habitats Regulation Assessment and had a detailed Environmental Statement submitted to support the application. The principle of the development has therefore been established.

This application is in accordance with the indicative layout and approach to fronting the Brixham Road and new junction. It also delivers a number of the key requirements set out in the Section 106 Agreement and outline planning conditions, such as affordable housing.

The scheme provides 20% affordable housing (agreed at the outline application stage) with 8 units being 'pepper potted' across the site.

2. Outstanding matters landscaping, and external appearance -

Further guidance will be provided to members regarding these two areas where further work and negotiations are currently being undertaken.

2.1 Landscape -

A detailed landscaping strategy has been developed and secured for the wider residential site which links into the strategy for the whole White Rock site and the planting associated with the on and off site LEMPs.

The same approach is proposed for this site to main continuity and is supported by officers. Following a change in layout to the scheme to improve the frontage to Brixham Road, updated landscaping plans are now awaited.

Importantly further plans need to ensure that an open low level landscape strategy is provided along the section of the site immediately adjoining the Brixham Road section to ensure forward visibility to the traffic lights. Subject to these plans appropriately addressing this relationship and continuing the approach from the approved scheme, with further tree planting and improved frontage to the junction, the landscaping for the site will be considered a positive addition to the site.

2.2 External Appearance of Flats -

In principle the design approach currently provided for the flats is welcomed by officers as it follows the design ethos of the properties which were secured on the principle route through the wider site fronting the central roundabout. This will maintain visual continuity for the site. Officers have however secured alterations to the scheme to improve the relationship of the flat block with the Brixham Road. An updated floor plan has been received which provides an improved relationship. Detailed elevations have yet to be provided. These should be available prior to the committee and officers will report to members further at this point. It is however envisaged that subject to maintaining the previous approach they will be supported by officers.

3. Layout -

3.1 Layout -

The proposed Layout of the site is considered to present a logical approach to the site. During the course of the application officers have negotiated a number of changes to the scheme, this includes the removal of a third access point which was to serve the flats, the removal of two dwellings adjoining the Brixham Road and the extension of the flat block. The re-orientation of properties to front the wider development and the removal of a garage block and turning head which

encroached into the green space were also secured through negotiations.

These changes have resulted in significant improvements to the layout which now acts as a more integrated extension to the wider residential site. The access to the flats now also relates much more strongly to the site. The development also provides a more appropriate relationship to the Brixham Road providing a visual arrival point to the development.

In conclusion the proposed layout provides a well integrated approach to the parcel of land and its surrounding environment.

3.2 Layout; Access and Highways Matters -

The principle access points to the residential part of the White Rock development are from Long Road and Brixham Road, connected by the new link road and central roundabout. This development is located to the south of the new access junction on to the Brixham Road.

Access to the site is gained from the first access spur from the junction with two routes provided in to the site. The first access provides entry into a single cul-de-sac providing access to 8 dwellings and culminates in the parking court for the flats. The second access provides access to a further 6 properties which front on to the green space approved under the larger residential scheme.

Both of these routes have additional access points up to an adjoining parcel of land to the south-east of the site which fronts the Brixham Road. This parcel of land does not form part of this reserved matters application or the wider Outline Application. It is important to ensure that this parcel of land is not constrained from future development, given that further accesses on to the Brixham Road are unlikely to be supported. This scheme ensures that access can be provided and could provide a logical extension to the residential development of White Rock.

While this approach is supported by officers the second access between properties 347 and 348 has raised concern over the lack of turning head which could lead to need for turning within the highway. This matter has been discussed with the Highways team and a temporary solution is now proposed which will provide a build out in to this route to direct cars access in this part of the site south alongside the green space where a dedicated turning head is provided. This will be secured via condition.

In conclusion the proposed layout in relation to the access and highways matters is supported by officers and provides a logical approach to the site which ensures it links into the wider site and provides access to the additional land to the east.

4. Appearance -

There are 8 different house types proposed on site, the majority of which are of a relatively simple design with pitched slate roofs, rendered walls, and coated

UPVC windows. In addition to the mostly rendered property types, brick clad properties are pepper potted to add variety to the development. This approach ties in to the approach of the larger site. There are a number of variations of property type, providing features such as enhanced detail with windows and/or chimney stacks to properties on corners of roads. This improves the quality of the streetscene and also helps provide natural surveillance through overlooking to streets and parking courts.

As set out in section 2.2 above, the external appearance of the flats is still awaited, however the design approach is to replicate the design of the other properties facing the central route through the site. The revised layout of the flats also provides a more defined relationship to the Brixham Road and will provide a better sense of enclosure to the parking court providing natural surveillance and a more logical arrival point than the previous approach.

In conclusion the appearance of the development, and the dwellings it will include, is considered acceptable and will help create a quality living environment subject to the resolution of the external appearance of the flats.

5. Scale -

The visual impact of development was a key factor in the outline application. This resulted in the location of the residential element within a contained bowl in the landscape, with open amenity space to the east on the ridge. An Off Site LEMP was produced, which includes extensive tree planting along the south of the site to help further screen the development particularly from the Stoke Gabriel and Galmpton Areas (South and West). An onsite LEMP has also now been approved which helps provide further landscaping enhancements.

The scale of physical development within this part of the site is considered acceptable, and relates well to the Brixham Road. The highest properties are limited to the corner of the new junction providing an arrival point to the site. The remainder of the site is limited to two storeys and properties are well spaced reducing the perceived mass of the development. The physical form is balanced by the landscaping strategy and the area of public open space which adjoins the site.

In conclusion, taking into account the form of the development, its location and the surrounding landscaping proposed, the scale of the development is considered to be acceptable.

6. Residential Amenity -

There are 38 new dwellings being provided within the scheme, this comprises;

- 17 Two bedroom flats, * affordable
- two bedroom houses, * affordable
- three bedroom houses, * affordable

- four bedroom houses, * affordable and

There are a good range of house sizes. Each property, with the exception of the flats, has a rear garden provided. The properties are all well proportioned internally offering a good standard of residential amenity.

The layout of the properties has been carefully considered and ensures limited inter-visibility between the properties. Where properties are in closer proximity to each other the location of windows has been carefully considered and a number of variations to individual house types have been produced to ensure overlooking does not occur. The windows from the flats does to a degree overlook the rear of a number of properties however considering the separation created by the landscaped parking court, the distance and angles of vision, the relationship created is acceptable.

While the flats do not have external amenity space, both bin stores and cycle parking have been provided. The flats are also only a short walk (100m) away from the nearest area of open space and further areas will be provided adjoining the central roundabout.

To ensure the security of the flats the communal entrance door to the flats should incorporate an access control system and a through the wall mail delivery system to reduce unsolicited entry into the block, further details of these measures will be required via condition.

In conclusion the scheme will provide a good quality of residential amenity for the future occupiers of the dwellings provided in the development.

6.1 Residential Amenity noise -

There is an important consideration in relation to the residential amenity of the occupiers of the properties facing on to the Brixham Road and onto the new main estate road given the noise generated by vehicles using these routes. To protect the living conditions of the occupiers, noise attenuation measures will be required to the windows. This will be controlled by condition.

In conclusion, subject to appropriate acoustic features being provided the residential amenity for the future occupiers will not be negatively affected by road noise.

7. Parking, Waste and Recycling -

All houses proposed will have two car parking spaces provided on plot, the flats will have 22 spaces to serve 17 units in a dedicated parking court. This level of parking provision is in accordance with the requirements of Policy T25 of the Local Plan and as such is considered acceptable. Furthermore all the dwellings in the scheme are within walking distance of the proposed new local centre, local bus stops and a range of employment/ educational establishments to promote sustainable modes of transport.

All properties within the scheme are to have dedicated recycling and waste storage areas and also cycle stores provided. This is secured by condition 4 of the outline consent.

8. Economy -

This is a reserved matters application and the larger reserved matters application P/2013/1229 are linked, through the outline consent and the Section 106 agreement, to the provision of new employment in the Western Bowl. Certain phases of the housing delivered on site trigger a requirement to provide employment floor space. 20,00sqft of employment space must be provided before the occupation of any dwelling, a further 15,000sqft must be provided before occupation of 65th dwelling.

It is clear that the approval of this scheme and its implementation, will help trigger the provision of significant new employment provision. Two of the industrial units have already been approved and at least one new end user has been secured. This is a key opportunity for the Bay and will help strengthen and develop the wider Torbay Business Park as a quality business location.

In addition, the construction process will provide significant opportunity for local employment as well as the potential for new trade for existing businesses.

9. EIA and HRA

The outline application was subject to Habitats Regulation Assessment and had a detailed Environmental Statement submitted to support the application. This has resulted in detailed on and off site Landscape and Ecology Management Plans for the area.

The Reserved Matters application was received following an advance request for EIA screening. It has been concluded that there is no need for a further Environmental Impact Assessment in this case, following a screening process that included consideration of the likely impacts of the development on the environment and because this application is in accordance with the principle of the earlier outline EIA application.

S106/CIL -

This is a reserved matters application, and the S106 agreement has been agreed and signed as part of the outline application.

Conclusions

Having considered the layout, appearance, scale, and landscaping of the proposed development against the relevant local and national planning policies. The proposed development is considered acceptable and will provide a high quality residential environment for the future occupiers, which forms a logical and integrated extension to the wider site.

Subject to a satisfactory resolution to the 2 outstanding matters set out below which should be resolved prior to the committee meeting the development is considered acceptable;

1. Landscaping
2. External appearance of the flats

Condition(s)/Reason(s)

01. At least one car parking space shown in the parking court on the approved layout shall be made permanently available for the use of each flat.

Reason: To ensure all properties have dedicated parking facilities and in accordance with Policy T25 of the Saved Adopted Torbay Local Plan 1995-2011.

02. The dwellings hereby approved shall be laid out in accordance with the house typology schedule layout plan and the schedules provided for each house type on the house type plans, hereby approved.

Reason: To ensure a satisfactory form of development and preserve residential amenity and in accordance with Policies BES, BE1 and H9 of the Saved Adopted Local Plan 1995-2011.

03. Prior to the occupation of properties ** as shown on the approved plans the properties shall be fitted with standard thermal double glazing (operable) with Dn,e,w 39 dB Acoustic trickle vents to all windows on the North and East elevations of the buildings which serve day time habitable rooms (including bedrooms) and shall be permanently maintained thereafter.

Reason: To ensure a satisfactory standard of residential amenity for the occupiers of these properties and in accordance with Policies EPS and EP4 of the Saved Adopted Torbay Local Plan 1995-2011.

04. Prior to the occupation of properties ** as shown on the approved plans the properties shall be fitted with acoustic double glazing (operable) Rw 36 dB with Dn,e,w 39 dB Acoustic trickle vents to all windows on the North, South and East elevations of the buildings which serve day time habitable rooms (including bedrooms) and shall be permanently maintained thereafter.

Reason: To ensure a satisfactory standard of residential amenity for the occupiers of these properties and in accordance with Policies EPS and EP4 of the Saved Adopted Torbay Local Plan 1995-2011.

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

Reason: In the interests of the amenities of the area and in accordance with Policies HS, H9, LS, L9 of the Saved Adopted Torbay Local Plan 1995-2011.

06. All trees planted as part of the development shall be permanently retained following their planting, including any replacement planting required by condition 5. Reason: In the interests of the amenities of the area and in accordance with Policies HS, H9, LS, L9 of the Saved Adopted Torbay Local Plan 1995-2011.

07. Prior to commencement of the block of flats hereby approved details of security measures to restrict access shall be provided to the Local Planning Authority which shall include secure mail delivery system. The flats shall then be constructed in accordance with the approved detail.

Reason: To preserve the residential amenity, safety and security of future occupiers and in accordance with policies H9, BEs and BE1 of the Saved Adopted Torbay Local Plan 19995-2011.

08. Prior to the occupation of properties 346- 351 details of a temporary road management feature (build out) to restrict access along the route between properties 347 and 348 shall be submitted to and approved by the Local Planning Authority. The traffic management feature as approved shall be constructed prior to the occupation of properties 346- 351 and retain as such until written confirmation has been received from the Local Planning Authority that such measure is no longer required.

Reason: To ensure road safety and in accordance with policies TS, H9 and BE1 of the Saved Adopted Torbay Local Plan 1995-2011.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
ES - Employment and local economy strategy
E119D - Long Road South, Paignton (New Policy)
TS - Land use transportation strategy
T2 - Transport hierarchy

T1 - Development accessibility
T3 - Cycling
T18 - Major Road Network
T22 - Western Corridor
T26 - Access from development onto the highway
T25 - Car parking in new development
NCS - Nature conservation strategy
NC1 - Protected sites - internationally import
NC5 - Protected species
LS - Landscape strategy
L2 - Areas of Great Landscape Value
L4 - Countryside Zones
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
L10 - Major development and landscaping
EPS - Environmental protection strategy
EP1 - Energy efficient design
EP3 - Control of pollution
EP7 - Contaminated land
CFS - Sustainable communities strategy
CF6 - Community infrastructure contributions
CF7 - Educational contributions
HS - Housing Strategy
H6 - Affordable 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
T27 - Servicing
W7 - Development and waste recycling facilities
NPPF- National Planning Policy Framework

Application Number

P/2013/1204

Site Address

72 Primley Park
Paignton
Devon
TQ3 3JX

Case Officer

Carly Perkins

Ward

Clifton With Maidenway

Description

Proposed new dwelling adjacent

Executive Summary/Key Outcomes

The proposal is for a single detached dwelling with two driveway parking spaces and surrounding garden areas. The proposal includes pedestrian/vehicular access at first floor level and further living accommodation at lower ground level due to the topography of the site. The design and alignment of the dwelling reflects that of other nearby properties on Primley Park.

The proposal is considered acceptable in this location and without serious detriment to the living conditions of neighbouring occupiers or the character or appearance locality.

Recommendation

Site Visit; Conditional Approval, subject to the completion of the s106 agreement to secure the sustainable development contributions in line with policy. The s106 to be completed within 3 months of the date of this committee or the application is to be refused for the reason of the lack of a s106 agreement.

Statutory Determination Period

8 weeks, the determination date was the 4th January 2014. The decision has yet to be made due to the need for the section 106 agreement, which is in the process of being agreed. The application has been further delayed in order to report to committee, due to the number of objections being received.

Site Details

The application site is a sloping site, inclining towards the road, Primley Park. Properties in Kelland Close sit at a lower level than the site and properties to the west of the site on Primley Park are located at a slightly higher level. There are two trees on the site which line the boundary with properties in Kelland Close and a low brick wall lines the front boundary of the site.

Detailed Proposals

The proposal is for a single detached dwelling with two driveway parking spaces and surrounding garden areas. The proposal includes pedestrian/vehicular access at first floor level off of Primley Park and further living accommodation at lower ground level due to the topography of the site. The design and alignment of the dwelling reflect that of other nearby properties on Primley Park.

Summary Of Consultation Responses

Highways Development Engineer: The length of the parking spaces must be 6m long (5.5m minimum) to prevent vehicles overhanging the footway. The applicant must submit calculations for the construction of any retaining structure supporting or adjacent to the highway. Any works on the highway will need to be performed under licence to the highways department by a contractor that is suitably qualified to work on adopted public highway with a minimum of £5 million public liability insurance. Providing the above can be met, Highways have no objections.

Arboricultural Officer: The current tree species on site whilst of poor quality are readily visible from the wider landscape given the far reaching reciprocal views available. Their replacement therefore should offer at least a neutral impact upon public visual amenities or preferably an enhancement. The trees suggested are of reduced merit in these terms in that they are of small final size and/or of limited visual presence. The supporting letter noted that they may be topped, this would not be in accordance with B.S.3998 2010 and against industry best practice would be detrimental to the amenities of the area. Suggested species to replace these are Sweet Gum, Gingko, Turkish Hazel, fastigiated forms of Oak or Beech, 2 trees would be acceptable given the size of the site.

It is recommended that the scheme be suitable for approval on arboricultural merit however the species for mitigating planting should be varied as above. Any plan indicating the trees should mark tree pit design, planting specification and post planting maintenance including watering and replacement of losses during the condition period.

Drainage: The applicant has indicate that surface water from the development will be drained via soakaways however no details have been included within the plans submitted in support of the planning application.

Before permission is approved the applicant should submit detailed designs for these soakaways in accordance with the details identified below. The development must carry out trial holes and infiltration tests at the locations of the proposed soakaways. These infiltration tests are required in order to confirm that the ground conditions are suitable for soakaways and in addition the infiltration rate will be used to design the required soakaways. The design of these soakaways should be carried out in accordance with Building Research Establishment Digest 365. The design should be submitted showing that the

proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance for climate change.

Summary Of Representations

4 objections have been received and one petition from five properties. Issues raised:

- Impact on light
- Impact on privacy
- Concerns regarding surface water and foul drainage
- Concerns regarding use of heavy machinery on sloping land and impact on shared boundary wall between properties in Kelland Close and application site
- Impact of future sales of properties in Kelland Close

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

Relevant Planning History

| | |
|---------------|---|
| P P/1991/1477 | Erection of one bungalow with dormer(in outline) (as revised by plans dated 16th December 1991) REFUSED |
| P/1992/0583 | Erection of one bungalow (in outline) REFUSED |
| P/2003/0076 | Erection of dwelling with vehicular access REFUSED |
| P/2013/1072 | Proposed dwelling WITHDRAWN |

Key Issues/Material Considerations

The relevant considerations are; planning history, the impact of the development on the character and appearance of the locality, the impact of the proposals on neighbouring residential amenity, the standard of the internal environment for potential occupiers, and parking provision.

Planning History:

There is a planning history of refusals for dwellings on this site, however, each application must be considered on its individual merits. The past decisions were made on the basis of different plans and proposals from that under consideration now.

In 1991 a proposal for a dwelling was refused as 'the proposal constitute[d] overdevelopment of a restricted site, result[ed] in an overcrowded and unsatisfactory arrangement of buildings which would have an adverse effect on the appearance and character of the surrounding area, and be detrimental to the residential amenities of the adjoining property'. Similarly in 1992 an application for a new dwelling was refused due to its impact on daylight and outlook. Finally

in 2003 a further proposal for a dwelling was refused as 'the proposed development on this restricted and steeply sloping site, would result in an unsatisfactory arrangement of dwellings with related loss of amenity for adjoining occupiers. In addition, amenity space for the proposed new dwelling would be unsatisfactory'.

The proposals of 1991 and 1992 were positioned to the rear of the site (the narrowest part of the site) and of horizontal proportions being very close to the boundaries of the site and in some cases touching the boundaries. In addition due to the position of the proposed dwelling it was positioned on a raised platform.

Each of the refused applications proposed a dwelling which was out of alignment with others in the locality and did not appear to follow the defined pattern of development either at Primley Park or Kelland Close. The previous withdrawn application similarly did not follow this alignment.

Character and Appearance:

The scheme will fit satisfactorily with the surrounding streetscene due to its design, siting and orientation.

The current application proposes a dwelling of a design and alignment to reflect those on the northern side of Primley Park. The design of the proposal features a catslide roof and a stepped design to the floor plan to mirror the design of the property immediately west of the site. The materials proposed would appear reasonably sympathetic to the surroundings however the choice of roof tile would not appear to relate well with others in the locality and for this reason a condition requiring the submission of materials has been recommended.

Notwithstanding this, the proposal is considered to blend satisfactorily with the surrounding built form and would not be considered out of place in this location, therefore the proposed dwelling is considered acceptable in terms of the character and appearance of the locality.

The size of the plot is comparable with others in Primley Park and Kelland Close and the size of the dwelling proposed is similar if not slightly smaller than others in the locality. The site is constrained due to its irregular shape and topography. However, the vertical emphasis to the footprint and the stepped design of the proposal, along with the proposed alignment, allows the dwelling to sit comfortably within the plot. There is a sufficient distance between the dwelling and the shared boundaries of the site, preventing a cramped appearance and the overdevelopment of the site.

Residential Amenity:

The proposal will have a satisfactory relationship to neighbouring properties and will preserve appropriate levels of residential amenity.

The alignment of the proposed dwelling follows the line of dwellings on the northern side of Primley Park. This alignment would prevent any elevations of the proposal and neighbouring properties in Kelland Close directly facing each other, limiting the impact of the openings in the proposed dwelling.

The topography of Primley Park results in 72 Primley being located at a higher level than 1 Kelland Close, the application site sits between these two plots. The path along the front boundary of the site would be at the same level as the first floor level of the proposed dwelling. Views from these rooms at this level would result in views afforded primarily above and beyond the properties in Kelland Close (over the rooftops). Whilst undoubtedly some views may be gained downward towards properties in Kelland Close, due to the orientation of the properties these views will not be directly on to flush elevations of properties in Kelland Close, instead these views will be offset.

In addition to this the proposal includes some tree screening, whilst it is noted that the arboricultural officer does not agree with the choice of species these will provide an element of screening (as the existing trees on site do) again helping to mitigate any impact on residential amenity. Furthermore, a landscaping condition will ensure that appropriate tree planting / screening is provided. In addition it is noted that there is a minimum distance of 20m between the proposal and 1 Kelland Close, 11m between the proposal and 3 and 5 Kelland Close and 14.5m between the proposal and 7 Kelland Close. As such, due to the orientation, position and alignment of the proposal and the distance and change in land levels between the site and the properties in Kelland Close the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of privacy.

Windows closest to shared boundaries are located on the western elevation facing number 72. Whilst these would primarily provide views on to a driveway, in light of the proximity of these windows to the boundary it is considered necessary to include a condition that the windows at ground level serving the utility and w.c. be obscure glazed with a restricted opening. The imposition of this condition is not considered to result in any detriment to the future occupiers of the dwelling, due to the use of these rooms.

Previous decisions have raised concerns regarding outlook and impact on daylight, these proposals have been positioned much closer to the eastern and northern boundaries of the site. The current proposal as noted above is a minimum distance of 11m from neighbouring properties in Kelland Close and ranges between 5-7m high (the highest part being located a minimum distance of 13m from neighbouring properties in Kelland Close).

The height and density of the existing trees along the shared boundary of the application site and Kelland Close have also been considered. However it is

noted that natural landscape features cannot be considered in the same way as built form.

The distance between the proposal and the shared boundaries and the neighbouring properties themselves and the design of the roof form and footprint are all material to the consideration of neighbouring living conditions. The proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing. The proposal is considered to be a sufficient distance from the boundaries to not result in any serious detriment to outlook for the occupiers of the properties in Kelland Close.

The proposal is located at a lower level than 72 Primley Park and is aligned with the existing dwelling, it is also noted that the proposed dwelling is separated from living accommodation of 72 Primley Park by an existing driveway. In light of the above the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant for the occupiers of 72 Primley Park.

Private Amenity Space:

The proposal includes a rear garden space to the north of the site and space to the west of the site. Previous applications were refused due to the new dwelling having an 'unsatisfactory amenity space'. The current proposal would benefit from a greater outdoor space for amenity and having considered the size of the surrounding plots and specifically the amenity spaces afforded to them this proposal would not be dissimilar. In light of this the level of outdoor amenity space is considered sufficient.

Parking Provision:

The proposal benefits from two driveway parking spaces to the front of the dwelling. These spaces would be 5.8m long by 5.8m wide providing adequate parking for two cars plus a pedestrian access to the dwelling.

The Highways Officer has stated that providing these spaces are a minimum of 5.5m long and the calculations are submitted for approval there would be no highway objection.

Conditions to this effect have been recommended and an additional condition has been added to ensure the parking is provided prior to the dwelling being occupied.

Landscaping:

The proposal includes the removal of two trees and their replacement with four trees. These trees provide some visual amenity value due to their visibility and some screening between the existing properties in Kelland Close and the application site. The Arboricultural Officer has stated that providing the proposed

tree species are varied in accordance with his advise he would not raise an objection.

It is recommended that a condition to require details of landscaping is included in any permission. Such a landscaping condition will also include a requirement for the submission of boundary treatment and hardstanding details.

Drainage:

It is proposed that surface water drainage be dealt with via soakaways. The Council's Drainage Engineer has requested further details to demonstrate that a soakaway is a suitable option to deal with surface water. To this effect a condition has been recommended to ensure that drainage is provided via soakaways that comply with BRE Digest 365 unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. It is proposed that foul sewerage be disposed of via the main sewer and details on the drawings indicate that the site will drain to the sewer in Kelland Close and that the site benefits from a right of access to this sewer through Kelland Close. The proposal is for one additional dwelling and therefore it is considered that the impact on the capacity of the public sewer would not be greatly impacted however the ability of the public sewer to accommodate an additional dwelling will be thoroughly considered during the process of a building regulations application.

Other Issues:

Representations have been made regarding the impact of the proposed dwelling on the saleability of the properties in Kelland Close. Whilst noted, this would not constitute a material planning consideration.

S106/CIL -

As part of the application process the proposal 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 addition, the application has been assessed against the adopted Council Report 'Third Party Contributions towards the South Devon Link Road', which seeks contributions towards funding the South Devon Link Road (SDLR) where new development impacts on, or contributes to the need for the SDLR.

The following contribution is required, based on the type and size of the development proposed:

FINANCIAL CONTRIBUTION:

| | |
|--|-----------|
| Waste Management | £ 50.00 |
| Sustainable Transport | £2,191.25 |
| Education (in Paignton only) | £ 671.25 |
| Lifelong Learning – Libraries | £ 141.25 |
| Greenspace and Recreation (where no onsite public open space) | £1,891.25 |
| South Devon Link Road (subtracted from sustainable development contributions) | £ 635.00 |

**TOTAL FOR DEVELOPMENT
(inc 5% admin charge) £5,859.00**

**Total for development with 5% early payment discount
(inc 5% admin charge) £5,566.05**

Conditions:

In addition to the conditions noted above regarding surface water drainage, landscaping, materials and parking it is also recommended to include a condition relating to the removal of permitted development rights. Whilst at present the proposed dwelling is considered acceptable the inclusion of extensions to the rear and sides of the development may result in a detrimental impact to residential amenity by reason of proximity to boundaries or an undue loss of private amenity space and therefore it is considered necessary to ensure that any additions to the dwelling are subject to planning consideration.

Conclusions

The proposal is considered acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance locality. The sustainable development contribution is to be paid via a section 106 agreement.

Condition(s)/Reason(s)

01. The development shall not commence until samples of all the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the development will harmonise visually with the character and appearance of the site and its surroundings in accordance with policy BES and BE1 of the Torbay Local Plan 1995-2011.

02. Prior to the occupation of the dwelling the windows in the western elevation serving the w.c. and utility room shall be fitted with level 4 obscure glazing and a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition.

Reason: In the interests of adjoining amenity in accordance with policy H9 of the Torbay Local Plan 1995-2011.

03. Prior to the occupation of the dwelling, hereby approved, the parking facilities shown on the plans hereby approved, shall be provided and made available for use. The parking area shall be retained for the parking of vehicles at all times thereafter to serve the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy T25 of the Torbay Local Plan 1995-2011.

04. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land: (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The proposed dwelling shall not be occupied until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

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

05. Notwithstanding Drawing Number 291/1a, the development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges, finished levels, planting plans, tree pit design, planting specification and post planting maintenance including watering and replacement of losses. The hard landscape works shall include means of enclosure and boundary and surface treatments. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with H9 of the Torbay Local Plan 1995-2011.

06. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 (which includes enlargement, improvement or other alteration, porches, sheds, greenhouses, huts, oil storage tanks, fences and walls) shall be constructed (other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained).

Reason: To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity in accordance with policy H9 of the Torbay Local Plan 1995-2011

Informative(s)

01. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds, reptiles and badgers, all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations shall be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring legally protected badgers, and reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Any excavations shall be fenced off at night to prevent threat of injury to badgers. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England

guidelines for protected species.

02. The applicants attention is drawn to the need to submit calculations to the highways authority for the construction of any retaining structure supporting or adjacent to the highway. Any works on the highway will need to be performed under licence to the highways authority by a contractor that is suitably qualified to work on adopted public highway with a minimum of £5 million public liability insurance.

Relevant Policies

- H9 - Layout, and design and community aspects
- BE1 - Design of new development
- BES - Built environment strategy
- EPS - Environmental protection strategy
- T25 - Car parking in new development
- NPPF- National Planning Policy Framework

Agenda Item 10

Report on highways reason for refusal

Application number P/2013/0572

Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan.

Land Adjacent To The A385 Totnes Road, Collaton St Mary

Executive Summary/Key Outcomes

An appeal has been submitted against the Council's decision on the above planning application. This will be heard at a Public Inquiry scheduled to start in late September. A review of the Council's position has been carried out in preparation for the appeal. As part of this review, independent advice has been sought in respect of the highways reason for refusal. The advice concludes that the reason for refusal relating to highways would be difficult to defend at appeal. As such, and in order to minimise the risk of an award of costs against the Council, this report addresses the issue of whether the Council should continue to defend the highways reason for refusal at the public inquiry.

The substantive reasons for refusal of the application relating to landscape impact and the piecemeal unsustainable development of this site remain robust and the Council is confident of its case in the appeal on these grounds. There are also ongoing discussions with the appellant in respect of ecology and flood risk, as is required by the duty to cooperate in the lead up to an Inquiry.

Recommendation

That the Council does not continue to defend the appeal on the ground of highways. Recent further work on the case has shown that it would be difficult for the Council to make a robust case that the development would result in a residual cumulative impact on the highway that is severe. Guidance in the NPPF (para. 32) is clear that development should only be refused on transport grounds where it would result in a 'severe' impact. At this stage it appears likely that the Council would be unable to provide sufficient evidence to defend the highways reason for refusal. Without a defensible case on highways the Council would be vulnerable to an award of costs.

It should be noted that the appellant could make a claim for costs against the Council based on not continuing to defend a reason for refusal of planning permission. There is a risk that the appellants could take the view that the Council has acted unreasonably in relying on a reason for refusal which it now considers would not

stand up to scrutiny. The risk of an award of costs would be reduced by making the decision not to continue to defend the highways reason for refusal at this stage. Advice in Planning Practice Guidance is that costs may be awarded on the basis that “unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process”. By withdrawing the highways reason for refusal at this stage the costs incurred by the appellant would be significantly less than if the Council pursued this ground and was unable to provide substantive evidence to justify its case. As such, the exposure to a potential award of costs would be very limited and Officers are confident that the Council will have acted reasonably in taking this step at an early a stage as possible in the appeal.

Background

Application reference P/2013/0572 for the above development was refused planning permission by notice dated 21st August 2013. Reason for refusal number six on the decision notice states;

The development through the provision of an additional two new highways junctions will impede the free flow of traffic along the A385 Totnes Road, contrary to policy T18, of the Saved Adopted Torbay Local Plan 1995-2011 which seeks to ensure that new accesses on to the major Road Network do not reduce road safety or detract from or conflict with the function of the route and the objectives of paragraphs 32 and 34 of the NPPF.

A copy of the Strategic Transport consultation response that was taken into consideration when the decision was made on the application is attached to this report.

The reason for refusal refers only to the provision of two new accesses to the site from the A385. The issue of an increase in vehicular traffic on the highway network as a result of the development is not part of the reason for refusal. A previous planning application for a larger volume of development on the site under application reference P/2012/1037 which was for 197 dwellings and a local centre utilising a single access point was refused planning permission without a highways reason for refusal. In both of the planning applications the overall traffic generation of the site has not been challenged by the Council. As there was no highway reason for refusal on application reference P/2012/1037 the implication is that a single point of access to the site is acceptable in highway terms to the Council.

Therefore the highways reason for refusal relates only to the provision of a second access onto the A385 Totnes Road.

The Policy references in the reason for refusal refer to Policy T18 in the Torbay Local Plan 1995-2011, and paragraphs 32 and 34 of the NPPF. Policy T18 states;

“New access points to the Major Road Network will not be permitted where they would reduce road safety or detract from or conflict with the function of the route”.

In paragraph 32 of the NPPF it is advised that

“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.

Paragraph 34 advises that;

“Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas”.

The Policy context outlined above and referred to in the reason for refusal means that the Council would have to demonstrate that the impact of the additional access on the safety and function of the A385 Totnes Road would be severe in order to defend its case at the inquiry.

Recent work on the Churston Golf Club Inquiry and advice from PINS in respect of local plan production has increased awareness of the strictness of this test.

In their grounds of appeal the appellant states that in their opinion the proposed two points of access to the site would not impede the free flow of traffic and in fact would be likely to reduce interruptions to the flow of traffic;

“It can be demonstrated that the introduction of this additional site access junction would, if anything, reduce the likelihood of interruptions in the free flow compared to a single point of access. The principal cause of delay that will materially affect free flow on the A385 is the right turn movement into the site but the use of two ghost island right turn lanes, designed to appropriate standards, will provide twice the stacking reserve, thus reducing the risk of waiting traffic blocking back into the westbound mainline flow.

Furthermore, two points of access help to spread the impact of traffic internally and reduce the impact on pedestrians and cyclists with dispersed traffic volumes. This would also result in an improved quality of design providing better focus on place within the development.

The Appellant will seek to demonstrate that the proposals are in compliance with policy T18 of the Saved Adopted Torbay Local Plan 1995-2011 and with the objectives of paragraphs 32 and 34 of the NPPF”.

In preparation for the public inquiry, the Council has reviewed its position which has included considering how robust the reasons for refusal are. As part of this process the Council has sought independent advice from Jacobs in respect of the highways reason for refusal and whether it is likely that it could be successfully defended at the

appeal. A copy of this report is attached at the end of this report. Jacob's conclusion is that the highways reason for refusal would be difficult to defend.

Jacobs advise that it is not considered that the two proposed accesses are overly close together, they are approximately 160m apart, and, if built to current highway standards, with improved visibility splays as proposed, both would be able to provide a safe and suitable access for the proposed users. They conclude "it is therefore considered that the residual impact of two accesses on the function of the route is therefore also unlikely to be severe".

Conclusion

The Jacobs report concludes that the highways reason for refusal should not be taken to appeal because the residual impact of the additional access would be unlikely to be considered to be severe. Following this advice it is doubtful that the Council would be able to produce the necessary evidence to substantiate the reason for refusal which would be needed to defend the case at appeal. Discussions have been held with highways officers and although they are of the opinion that a single point of access to the site would have less impact on the free flow of traffic they have not provided evidence to justify this position.

Without an objective analysis of the proposals impact, the Council would be in a weak position and would be vulnerable to an application for an award of costs on the grounds of relying on a reason for refusal that would fail to stand up to scrutiny. In order to limit a vulnerable situation and for the Council to behave reasonably in the appeal process it is recommended that the highways reason for refusal should not be defended at the inquiry.

The substantive reasons for refusal of the application relating to landscape impact and the piecemeal unsustainable development of this site remain robust and the Council is confident of its case in the appeal on these grounds. There are ongoing discussions with the appellant in respect of ecology and flood risk, as is required by the duty to cooperate in the lead up to an Inquiry.