



Wednesday, 27 March 2013

## **DEVELOPMENT MANAGEMENT COMMITTEE**

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

**Monday, 8 April 2013**

commencing at **2.00 pm**

The meeting will be held in the Sports Hall, Parkfield, Colin Road,  
Paignton, TQ3 2NR, TQ3 2NR

### **Members of the Committee**

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Hill

Councillor Kingscote

Councillor Pentney

Councillor Stockman

---

**Working for a healthy, prosperous and happy Bay**

---

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

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

Email: [governance.support@torbay.gov.uk](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. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 6 March 2013 and 11 March 2013.

3. **Declarations of Interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

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

4. **Urgent Items**

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

5. **P/2013/0166/PA 45 Winsu Avenue, Paignton**

(Pages 1 - 8)

Demolition of existing house and construction of two new detached houses with integral garages with vehicular and pedestrian access.

6. **P/2013/0180/R4 145 -149 Winner Street, Paignton**

(Pages 9 - 17)

Construction of three dwellings with two bedrooms.

7. **P/2013/0187/MPA 36 Preston Down Road, Paignton**

(Pages 18 - 27)

Formation of 12 dwellings comprising 7 houses and 5 apartments with associated external works and infrastructure, vehicular and pedestrian access.

8. **P/2013/0194/MR3 Eastern Esplanade, Paignton Seafront, Paignton** (Pages 28 - 34)  
Change of use from public highway to public car park; use as events area for up to 60 days per annum.
9. **P/2013/0214/PA Oldway Mansion, Torquay Road, Paignton** (Pages 35 - 38)  
Revised footprint of proposed indoor bowling club Oldway Mansion and changes to elevation.
10. **P/2012/0078/MPA Westhill Garage, Chatto Road, Torquay** (Pages 39 - 45)  
Extend time limit - residential development comprising 8 houses, 3 flats, 2 bungalows and 2 maisonettes (15 units in total) with vehicular/pedestrian access - application P/2009/0422.
11. **P/2012/1155/PA Dainton Self Store Ltd, Torre Station Yard, Newton Road, Torquay** (Verbal Report)  
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.
12. **P/2012/1259/PA 4 Bishops Rise, Torquay** (Pages 46 - 49)  
Formation of single storey dwelling in land part of garden at 4 Bishops Rise with all associated works and vehicular and pedestrian access.
13. **P/2013/0053/MPA Roebuck House, Abbey Road, Torquay** (Pages 50 - 59)  
Development to provide 33 apartments including the conversion of Roebuck House from offices (B 1) (a) to residential development and the addition of two floors to create additional residential development; formation of car parking at lower ground floor level and all other associated infrastructure and associated development.
14. **P/2013/0057/MPA South Devon Hotel, 10 St Margarets Road, Torquay** (Pages 60 - 77)  
Extend time limit - Refurbishment of original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations - application P/2009/0073/MPA.
15. **P/2013/0167/PA Princess Gardens, Off Torbay Road, Torquay** (Pages 78 - 81)  
Installation and operation of a 50M observation wheel with ticket office to front and supporting coffee and crepe unit with decked seating area and secure panelled service and generator compound area to rear on a temporary basis from 24/05/2013 to 5/11/2013.
16. **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.

**17. 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, 3 April 2013. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Note**

Please be advised that stilettos or sharp heels cannot be worn in the sports hall.

**Application Number**

P/2013/0166

**Site Address**

45 Winsu Avenue  
Paignton  
Devon  
TQ3 1QE

**Case Officer**

Mr Alistair Wagstaff

**Ward**

Clifton With Maidenway

**Description**

Demolition of existing house and construction of 2 new detached houses with integral garages with vehicular and pedestrian access

**Executive Summary/Key Outcomes**

Permission is sought for the demolition of one large detached property and creation of two detached properties. The new properties will have a three storey elevation fronting the road with two storeys over an integral garage. The frontage design is a modern take on a traditional housing style.

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.

When comparing the proposal in terms of plot sizes to those in the surrounding area it will not result in plot widths out of keeping with others in the street.

In relation to the impact on the street scene, Winsu Avenue contains a wide variety of house types and designs with different architectural styles. The development would introduce a three storey form of development to the street. The height of the dwellings is however in line with the stepping up of ridge lines of houses along this part of the street. While it is clear that the proposed development would alter the established streetscene, on balance, and taking in to account the variety of dwelling types and styles, it is not deemed to have a detrimental impact on the streetscene.

Due to the design of the proposed dwellings it is considered that on balance their addition would not have a significant impact on the privacy and amenity of neighbouring properties, to the extent to warrant the refusal of the application.

As such the proposal is recommended for conditional approval.

**Recommendation**

Site Visit; Conditional Approval; subject to the completion of a s106 legal

agreement or upfront payment of the 106 contribution within 3 months of the date of this decision. In the event that the 106 is not completed within 3 months, the application is to be refused for reasons of the lack of a s106 agreement.

### **Statutory Determination Period**

8 Weeks 16th April

### **Site Details**

This is large plot on the south side of Winsu Avenue, currently occupied by one dwelling. The site slopes down from north to south.

### **Detailed Proposals**

Demolition of one large detached property, subdivision of the plot and creation of two detached properties. The new properties will have a three storey elevation fronting the road, two storeys over an integral garage. The frontage elevations design is a modern take on a traditional housing style.

The rear of the property has a lower ground floor level taking advantage of the topography of the site which extends out 4.5m beyond the rear elevation. There are a further three storeys above with a ground floor balcony inset from the building edge with a privacy screen on the sides of the balconies.

### **Summary Of Consultation Responses**

*Torbay Council's Natural Environment Services* Contribution could be used towards improvements to Shorton Valley Woods to include access and path improvements. However it would be preferable to use the contribution towards 3 doorstep playgrounds within 1km of site which would benefit from improvements to equipment.

*Highway* Highways raise no objections to the application, but request an SPD contribution of £3,610 (in line with the table found in Appendix 1 of Planning Contributions and Affordable Housing SPD Update 3) based on the creation of two new residential units and applying mitigation for the existing property.

This contribution will support the provision and enhancement of bus stop infrastructure on Shorton Road, in the vicinity of the site.

This request accords with the Local Authority policy document aiming to improve sustainable transport opportunities and enabling travel by sustainable modes, particularly for short journeys

At least one secure cycle parking space should be available for each dwelling.

### **Summary Of Representations**

20 objections have been received the key points include;

Noise  
Town cramming  
Garden grabbing  
Over Development  
Privacy and Outlook  
Traffic and access  
Impact on streetscene (height of properties)  
Not in-keeping with local area (three storey)  
Overbearing impact  
Extent of extension to rear  
Loss of light  
Over looking  
Set president for future redevelopment  
Appear 4 story from rear  
Lack local distinctiveness  
Scale and massing  
Topographical incongruity  
Drawing accuracy  
Not compliant with NPPF, Local Plan, and Urban Design Guide.

### **Relevant Planning History**

None directly relevant beyond pre app DE/2012/0065, which has resulted in this application.

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

#### **Principle of the development**

The site is large in comparison to others in the near vicinity. Its subdivision will result in 2 smaller plot widths. However it will not result in plot widths out of keeping with others in the street and surrounding area. The new properties are large in scale, however they maintain a degree of separation between the neighbouring properties and each other. The dwellings are also set within an extensive plot which will provide ample amenity space for each unit.

A number of the representations have asserted that the development would constitute an over development of the site. However in view of the size of the existing plot, the layout of the development and the limited impact on the streetscene, it is considered that the development would not constitute over development of the site.

#### **Streetscene/ Design**

In relation to the impact on the street scene, Winsu Avenue contains a wide variety of house types and designs with different architectural styles. A number of the properties have been subject to extensions since their original

construction. There are clear examples along Winsu Avenue where new infill development has already successfully integrated with the street scene. Visually the proposed dwellings are modern in style, and well designed, so while different to the existing unit, they offer a more appropriate addition to other infill's visible in the street. Pre-application discussions resulted in there has been a reduction in the ridge heights of the dwellings. This brings their height in line with the stepping up of ridge lines of houses along this part of the street before the established pattern reverts to that of bungalows.

The development would introduce a three storey form of development to the street which at present consists of only two storey properties and bungalows. This point has featured in a large number of representations as being out of character with the area and the street scene. While it is clear that the proposed development would alter the established streetscene in this regard, the consideration is whether this change is so significant that it would warrant the refusal of the application.

On balance and taking into account the variety of dwelling types and styles it is not considered that the three storey element would warrant the refusal of the application. Furthermore the quality of design and the enhancement introduced through the proposed landscaping lead to the conclusions that the proposal is as an appropriate addition in the street scene. The stepping of the units and their ridge heights fits with the prevailing ridge heights of properties either side of the development.

In relation to design of the two dwellings a significant number of representations have been received identifying that they are out of character with the area. It is clear there is a difference in architectural style. However, there are a wide variety of types and style of properties in the streetscene, with no consistent appearance of development. The proposed dwellings are of a modern design, but resemble a traditional form of housing design. Furthermore, the principles of prevailing heights, plot widths, urban grain and urban form are preserved in the submitted scheme.

Paragraph 60 of the NPPF states that authorities 'should not attempt to impose architectural styles of particular tastes and they should concentrate on guiding overall scale, density, massing, height, landscape, layout, materials and access'. Given this clear policy statement and the proposed submission, it is considered that the design is acceptable on its individual merits in this case.

### **Parking and Access**

The proposed development provides ample parking provision with a large garage and driveway, providing parking for each unit in line with the requirements of Policy T25. Due to the size of the garage area, ample space is also available for cycling storage. The accesses proposed are appropriate to their location and raise no concern over highway safety.



### **Impact on residential amenity**

The two dwellings proposed provide a high quality of residential amenity to future occupiers with an extensive internal area and ample external amenity space. There will be a limited impact on living conditions in neighbouring properties and the impacts are individually considered below.

The potential for increased overlooking/ loss of privacy to properties on the north side of Winsu Avenue has been assessed the principle feature window (third floor) would offer the most extensive opportunity for overlooking. However it is shown as obscure glazed (condition recommended). The other windows on the third floor are a small port hole window onto a bathroom and a velux roof light over the stair well. Consequently there will be no material loss of privacy or increased overlooking.

Furthermore the relationship, between buildings across the highway, is no more significant than that present in many residential streets. While the outlook would be altered, the resultant new relationship is not deemed to be an unduly negative one nor does it raise concern in relation to overlooking. As such this relationship is considered acceptable.

The properties to the rear of the site on Southfield Avenue will have the most extensive element of the proposed scheme facing their properties, with a new four storey elevation replacing the existing two storey elevation. Visually this will be a substantive change. However, the closest extent of the proposed new dwellings (the lower ground floor) is over 36 m from the boundary and in the region of 60 m from property to property. There is also existing boundary landscaping which is proposed to be enhanced by the landscaping plan submitted with the application. On balance due to the distance between the properties and the landscaping provided the resultant relationship is deemed appropriate.

In relation to the neighbouring properties, the design of the new properties provides no openings in the side elevations ensuring that there is no overlooking to either side. Likewise the proposed balcony areas have been in-set from the edge of the properties with privacy screens provided to limit the overlooking from the balcony area (condition to retain included). As such the relationship between properties is an acceptable one.

The two proposed dwellings extend to the rear, beyond the rear building line of the existing property, with a depth of the proposed dwellings of 10m and with an addition of a sub-ground floor extending a further 4.5m.

The impact of this is has been assessed in relation, particular, to 43 and 47 Winsu Avenue. Representations have been received concerning this relationship from both neighbours. Negotiations have resulted in the design of the properties

being handed to ensure the lowest elevation of each property abuts the neighbour. A reduction in the overall development height has also been secured and the rear outward extent of the proposed dwelling has been reduced.

A strong landscaping treatment to the boundaries has also been introduced with a mix beech hedge introduced along the side of the proposed lower ground floor, reducing its impact. As a result of these alterations the impact of the proposed development on the residential amenity of the neighbours is considered acceptable. The resultant relationship is also similar to others in the streetscene including that between 49 and 51 and 31A Shorton Road and 43 Winsu Avenue.

### **Landscaping**

A detailed landscaping scheme has been submitted, helping the proposal blend into the street scene, where the majority of the properties have well established boundary vegetation. Equally, given the increase in depth of the properties, the enhanced boundary planting to the rear of the new dwellings helps reduce the resultant impact of the development on the neighbours and also helps ensure the relationship between the two new properties is a suitable one.

### **S106/CIL -**

Following consultation with the relevant consultees and the calculation of 106 contribution, the following 106 contribution is required.

Developer Contribution type	Contribution
Waste	£ 50
Sustainable Transport	£2,640*
Education	£1,660
Life Long Learning	£ 470
Greenspace and Recreation	£2,370
South Devon Link Road	£ 970
Total for additional1 dwelling	£8,160
Reduced figure for upfront payment(-5%)	£7,752
%5 Administration fee (£388)=	£8,140
<u>Total contribution required</u>	<u>£8,140</u>

\* The Sustainable transport contribution has been reduced to facilitate the South Devon Link Road contribution

### **Conclusions**

The application for the siting of two dwellings is considered to be appropriate having regard to all national and local planning policies and all other relevant material considerations.

The dwellings will fit within the prevailing context in terms of ridge height, plot-width, plot position and urban grain. The design, whilst modern, is appropriate to the varied context and the impact on neighbouring occupiers is limited by virtue of the height and depth of the plots and the proposed landscaping.

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

01. Before the first occupation of the buildings hereby permitted the privacy screens on the east and west sides of the balcony area shall be, installed in accordance with the plans hereby approved and be fitted with obscured glazing to, or to the equivalent of, or to a level in excess of Pilkington Level 5. The privacy screens shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; and in accordance with the requirements of policies BES, BE1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. Before the first occupation of the buildings hereby permitted the third floor windows on the front elevation shall be fitted with obscured glazing to, or to the equivalent of, or to a level in excess of Pilkington Level 3. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; and in accordance with the requirements of policies BES, B1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

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 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 the objectives of policies BS1 and H9 of the Saved Adopted Torbay Local Plan 1995-2011.

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- H2 New housing on unidentified sites
- H9 Layout, and design and community aspects
- T25 Car parking in new development

**Application Number**

P/2013/0180

**Site Address**

145 -149  
Winner Street  
Paignton  
Devon  
TQ3 3BP

**Case Officer**

Mr Scott Jones

**Ward**

Roundham With Hyde

**Description**

Construction of 3 dwellings with 2 bed rooms

**Executive Summary/Key Outcomes**

The proposal is an 'infill' development scheme on a vacant plot of land located towards the northern end of Winner Street in Paignton. The site currently holds six parking spaces for rent from the Council. The application comes before committee as it is a proposal on land owned by the Authority.

The proposal is a residential scheme that will provide three mid-sized dwellings in a short terrace, at two-storeys in height. The design ethos is a contemporary pastiche that seeks to draw on the character of Victorian buildings in the vicinity.

The principle of a residential scheme is supported as, although the site sits within a designated shopping area, it is considered to sit at the periphery of the commercial area where the character moves towards that of residential. The site and location is a highly sustainable brownfield site that will also support the local commercial area by providing new houses and occupants within close proximity of the various services.

The scale, form and design is considered to be a notable improvement to a similar scheme considered by the committee in June 2012, which raised concerns over its visual impact and the impact on neighbouring residents. The scheme is now considered to be a positive contribution to the streetscene.

Previous concerns in regard to the impact upon the amenity of occupiers to the North (Number 151), which have side-facing windows over the site, have been adequately addressed by the reduction in the scale of the building from three storeys to two storeys. The revised scale is considered acceptable when considering the 3.5 metre gap between the buildings and the fact that the eaves/parapet line now sits at an approximate 1.5 storey-height, aligned with the 1st floor windows adjacent.

Following the submission of revised plans, which amend the elevations and re-introduce the stepping of each unit, the minor design concerns that officers had with the original submission have been overcome.

### **Recommendation**

Site Visit; Conditional Approval (suggested items for conditions to cover at end of this report); Subject to Planning Contributions, achieved via an upfront payment or S106 Legal Agreement. Any s106 agreement to be completed within 3 months of the date of this committee or the application is to be refused for reasons of the lack of a s106.

### **Statutory Determination Period**

8 weeks / 14 April 2013 determination date.

### **Site Details**

The site is essentially an undeveloped brownfield plot that appears as a break in the established built-up streetscene at the northern end of Winner Street, Paignton. It was cleared of its former buildings during the mid-20th Century and now holds six council-owned car parking spaces set in front of an overgrown exposed rock face, which rises steeply to eventually meet a retaining wall that defines the border with residential properties off Winner Hill Road to the West. To either side the plot is tightly framed by existing buildings, with a mid-20th Century two-storey mixed-use block to the South that holds ground floor retail with residential above, and a three-storey residential building to the North, which dates from the early/mid 19th Century.

In terms of designation the site and local area is within the Old Paignton Conservation Area and forms part of a defined Secondary Shopping Frontage and wider Town Centre. The area has also previously been party to a heritage regeneration scheme and it should be noted that the Victorian terrace opposite the site that dates from the early/mid 19th Century is grade 2 listed.

### **Detailed Proposals**

The proposal is a two-storey residential scheme with three dwellings set within a short terrace. Each property offers two-bedroom accommodation with separate living, kitchen and bathrooms, along with a degree of outdoor amenity space to the rear.

In terms of detail the scheme is a contemporary pastiche design solution that draws on 19th Century Victorian development in the area. The elevations are largely crisp render inset with aluminium windows that provides a scale and

vertical emphasis aligned with the general character of the predominant fenestration pattern in the area. At ground floor a render finish frames the windows, which then gives way to a modern grey composite panel detail. The roof form is a simple low-pitched gable finished in seamed metal, set behind a parapet detail.

In regard to general build parameters the footprint of the development is 13 metres wide by 8.5 metres deep, which is unchanged from the previous submission from 2012. The height has however been reduced with the scheme now being two-storey rather than three-storey. Resultantly where it was 8 metres to the top of the parapet on the northern end, it is now 6 metres. Similarly the apex of the gable has reduced from around 9.75 metres to 7.5 metres. In regard to the buildings proximity to adjoining properties the proposal will be set approximately 2 metres away from number 143 Winner Street and between 2.5 and 3.5 metres away from number 151 Winner Street (reflecting a staggered building line).

### **Summary Of Consultation Responses**

*Conservation & Design Team:* There is no objection to the principle of (re)development of the site and this revised scheme is now considered to accord with Policy BE5 *Policy in Conservation Areas*, as it removes an uncharacteristic gap and enhances the character and appearance of the area.

*Archaeology Officer:* Previous comments (2012 scheme) stand in respect to whether the proposal should be supported. It is recommended that a condition be attached to ensure that no development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation (submitted by the applicant and approved by the Planning Authority). The reasoning being that where an important archaeological site will be materially damaged or destroyed as a result of development following the granting of planning permission, the developer will be required to make provision for its archaeological recording, preservation, storage and publication as a condition of the permission.

*Torbay Development Agency:* Previously (2012 scheme) the TDA offered support to the mixed use scheme citing the positives of creating commercial units and the positives of creating three new apartments which will help towards meeting the housing shortfall in Torbay. No further comment has been offered.

*Strategic Transport / Highways:* Previous comments (2012) offered that the site is currently a private parking area along Winner Street, a predominantly built up area on the edge of Paignton town centre. The development would lead to the loss of this parking facility.

Although Winner Street is not a bus route, the site is close to Paignton Bus Station and routes running to and from the town centre, so is very accessible by public transport.

If the proposal is supported, planning contributions in-line with the SPD should be sought for cycle route improvements in the vicinity of the site based on the number and scale of the residential units. At least one cycle parking space should be available for each dwelling.

*Drainage:* No comments offered.

*South West Water:* No objection.

### **Summary Of Representations**

Two letters of representation received from owners/occupiers of properties within 151 Winner Street citing concern over the impact upon amenity, chiefly through the impact from the loss of light on the living environments and the loss of outlook from key rooms.

### **Relevant Planning History**

P/2012/0233/R4 Construction of 3 new 2-storey flats with 2 bedrooms and 3 new self-contained commercial units – Refused

Pre-Application Enquiry ZP/2011/0459 – 3 Townhouses – Not Supported

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

The key issues for consideration are deemed to be;

- (i) The general principle of residential use
- (ii) The visual impact and impact upon the Old Paignton Conservation Area and nearby listed buildings
- (iii) Implications upon local neighbour amenity
- (iv) Highway, parking and traffic matters

*The principle of residential use:*

The proposal sits within a defined Town Centre site and Secondary Shopping Frontage. The key policy considerations are considered to be whether the proposals would undermine the shopping character, contribute positively to the town centre (as a focus on commercial or community life), and whether there would be any detrimental effects upon the visual or other special character or amenities of the area. Consideration should also be given to the suitability of the layouts in terms of being fit for purpose and thus sustainable for the uses proposed.



Firstly in terms of general principles the basis of a residential scheme appears to sit comfortably with policy guidance. Although the site sits in an established shopping area it is at the periphery, in an area where a residential character begins to establish itself. With consideration of the peripheral location, together with the fact that there is no current commercial offering from the site that is to be lost, it is considered acceptable to support the introduction of additional residential units within such a sustainable location. It is also considered that additional residential units within the Town Centre area will itself add footfall in support of local businesses, thus being indirectly supportive of relevant shopping policies.

Further to the above, in regard to detail, the residential environments proposed appear to provide a suitable scale of living space, offering key habitable rooms with good levels of natural lighting. Amenity space is somewhat limited but is reflective of town centre living and local context. All matters considered there is no obvious concern in respect to the quality of the living environments offered in the scheme.

*Visual implications / impact upon the historic built environment:*

The site sits in a sensitive historic context that has evolved from medieval times, which gives a somewhat eclectic local form. In terms of policy guidance as it sits under Conservation Area designation and forms part of the setting of a grade 2 listed terrace that lies opposite, the development will need to preserve or enhance the local area.

The revised scheme is a contemporary pastiche design that seeks to reflect the predominant local form, that of Victorian commercial and residential development. As a contemporary response it draws on the 19th Century Victorian development in the area in terms of its elevation finish and fenestration pattern and detail. The crisp render walls inset with aluminium windows that offer the scale and vertical emphasis aligned with historic buildings around is considered a success. At ground floor interest is added via the introduction of a modern grey composite panel detail. The roof form is a simple low-pitched gable finished in seamed metal, set behind a parapet detail, which also appears to sit comfortably within the context.

In regard to general scale and massing the buildings footprint is maintained to that previously sought, being 13 metres wide by 8.5 metres deep. This comfortably fills the plot. The height has been reduced with the scheme now being two-storey rather than three-storey and where it was 8 metres to the top of the parapet on the Northern end it is now 6 metres. Similarly the apex of the gable has reduced from around 9.75 metres to 7.5 metres. The reduced scale is considered to sit comfortably within the site, which requires a sensible degree of massing in order for the development to relate to the adjacent buildings that are all of a notable scale.

The original submission had a horizontal appearance due to there being a single eaves line running through the scheme, a lack of vertical emphasis in the elevation and the use of a shop style window for the ground floor of each unit. Following negotiation the scheme has been amended to reflect concerns about fitting the design into its context. The ground floor window proportions now relate to the prevailing context, the elevations have a vertical emphasis and each unit steps up so as to remove the single eaves line that generated horizontality.

In relation to the historic context it is considered that the proposal would now enhance the character or appearance of the Conservation Area and hence the visual implications of the scheme are acceptable.

*Neighbour amenity issues:*

Amenity issues centre on the impact upon adjacent occupiers to the site, in relation to the potential loss of privacy, loss of light or outlook, or creation of an overbearing relationship.

It is unlikely that properties/occupants to the rear (Winner Hill Road), to the South (Number 143), and to the East (across Winner Street), would experience any notable change in the levels of amenity afforded them. This is due to the relationship between buildings, such as the distances involved, local topography, lack of window openings etc. The only notable relationship for consideration is therefore that to the North, with the occupiers of residences within 151 Winner Street.

Firstly in regard to any potential loss of privacy, the proposed building lacks any form of side facing windows or doors looking towards No. 151. This affords protection against direct inter-looking between rooms within the proposed and existing buildings. Over looking from the raised courtyard gardens set at first floor level to the rear (which respond to the sloping topography) is also restricted. The plans show that these areas are bounded by 2 metre high partition walls, which afford privacy between each unit and with the properties adjacent. This border treatment is considered to remove any potential overlooking into rooms within Number 151 and hence, it is judged that local privacy levels would remain largely unaffected by the development.

In regard to loss of light, outlook and the potential for the creation of an overbearing relationship, such issues are all closely entwined and centre on the relationship and distance between buildings and the massing of the proposal. Previously the three-storey building proposed in 2012, which was 8 metres to the eaves and nearly 10 metres to the apex, across a depth of 8.5 metres, was considered to result in unacceptable implications. The question is now whether the revisions to the scheme have overcome these concerns.

The revised scheme has been reduced by one storey and is now a two-storey

building, which is now 6 metres in height to the parapet and a further 1.5 metres to the ridge line at its northern end. The distance between this flank wall to the sensitive section of the adjacent properties (i.e. where the windows are set) is 3.5 metres.

Following the revisions the 2nd floor unit at No. 151 appears to be unaffected, as the outline of the building has dropped below the two windows set on this floor.

In regard to the 1st floor unit at No. 151, the drop in height of the revised building brings the outline of the roof largely in-line with the two windows that serve a lounge and kitchen. The revised relationship is far more comfortable than that previously considered and across a gap of 3.5 metres it is considered that the amenity of the occupiers would be substantially protected.

At ground floor level it is apparent that a building to the scale proposed will have some form of impact upon the light and outlook offered to inhabitants through the two windows. The window towards the front of the building is a light-well to a habitable room which offers light rather than outlook. The window to the rear serves a kitchen area. The proposal includes a 3.5 metre gap to these windows, with a building to a reduced scale of building. It is considered that the reduced scale of building will provide a practical arrangement that limits the likely impact upon the adjacent occupants.

It is noted that historically a building of similar or larger scale would have occupied the plot and it is reasonable, given the brownfield nature of the site and the sustainable central location, that the site be developed. The scale has been negotiated down to two-storeys in order to find the balance between protecting living conditions and enabling the development of the site to come forward.

*Highway parking and traffic matters:*

The issues relate to the loss of the existing parking provision and the suitability of the resultant use without supportive on-site parking.

Firstly the loss of the six parking spaces, which are currently rented from the Authority rather than openly available as public spaces, is considered acceptable, as there is provision for public and contract parking in close proximity in the Crown and Anchor Way car park and other central car parks. The current provision, although offering a local service, can be met elsewhere locally with little impact.

The provision of residential units without accompanying parking is commensurate with the local character of this central area and sits comfortably with the expectations of town centre living. Considering the central location it is accepted that the development does not necessarily require any on-site parking provision as any occupants would be served by good local transport links and access to key facilities.

The Authority's estate office accept the potential loss of parking through redevelopment and the Authority's transport team does not oppose the development provided suitable cycle parking is included along with contributions to infrastructure works in-line with the scale of the development (as outlined within the adopted SPD).

### **S106/CIL -**

The application will provide three residential units, which would create additional pressures upon local physical and social infrastructure, costs which can be recouped as sanctioned by Section 106 of the 1990 Planning Act. The Council's adopted SPD *Planning Contributions and Affordable Housing: Priorities and Delivery* outlines the levels for contributions for varying forms of development. Considering current guidance the following levels of contribution are triggered;

*Contributions triggered by three residential units within the 55-74m2 category:*

Sustainable Transport:	£4811
Greenspace & Recreation:	£3011
Education:	£ 881
Lifelong Learning:	£ 311
Waste & Recycling:	£ 150

South Devon Link Road: £1395 (obtained by deducting this amount from the sustainable development contribution types listed above)

The applicant has confirmed that he accepts the need to enter into a S106 Agreement on the terms outlined above.

### **Conclusions**

The site is a highly sustainable brownfield site and clearly holds development potential.

The revised scheme now provides a suitable form of development that would create a positive contribution to the streetscene by removing an uncharacteristic gap.

The scale, which was previously considered imposing upon neighbouring occupiers, has been reduced to an acceptable level.

If minded to approve it is recommended that conditions should be attached covering the following matters:

- Submission of materials

- Detailed design drawings
- Archaeological matters

### **Relevant Policies**

HS	Housing Strategy
H3	Residential accommodation in town centre
H9	Layout, and design and community aspects
ES	Employment and local economy strategy
SS	Shopping strategy
S4	Secondary shopping frontages
BES	Built environment strategy
BE1	Design of new development
BE5	Policy in conservation areas
BE6	Development affecting listed buildings
TS	Land use transportation strategy
T25	Car parking in new development
W7	Development and waste recycling facilities
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
CF7	Educational contributions

# Agenda Item 7

**Application Number**

P/2013/0187

**Site Address**

36 Preston Down Road  
Paignton  
Devon  
TQ3 2RW

**Case Officer**

Mr John Burton

**Ward**

Preston

**Description**

Formation of 12 dwellings comprising 7 houses and 5 apartments with associated external works and infrastructure, vehicular and pedestrian access

**Executive Summary/Key Outcomes**

The proposal makes good use of a site with established residential permission and, at 12 units the development reflects the density which was previously approved (albeit in a block of flats) under planning reference P/2006/1508. The site has lain undeveloped for a number of years and this scheme will make efficient use of a brownfield site in a sustainable location.

Although the tenure as affordable housing is not one that can be restricted (given that only 12 units are proposed) the applicant's stated intention is to provide much needed affordable housing on this site. As such the 106 will provide for this intention and in the event that affordable units are not provided the usual planning contributions will apply.

The design and appearance provides a principle villa form to the flats at the front of the site and a number of dwelling houses to the rear of the site. This relates well with the predominant urban grain and form with a number of semi-detached and detached villa's with development behind being characteristic of this part of Preston Down Road. The dwellings to the back of the site are set back substantially from the street.

The relationship with neighbouring properties requires careful consideration, however, the view reached is that, given the back to back distances and side to back relationships proposed, the development is acceptable in this regard, subject to appropriate boundary treatment and landscaping.

There are a number of minor outstanding matters in relation to the detailed design of this scheme. These relate to the need to refine the elevations to emphasise the villa form of the main block (A) and to emphasise the subservience of the rear block (B). In addition, there is a need to vary the landscaping scheme to ensure that this fully complements the development and

is manageable in the longer term.

It is considered on its merits, that this scheme is acceptable for approval.

### **Recommendation**

Conditional Approval, delegated to the Executive Head of Spatial Planning subject to; 1) the refinement of the design of the elevations to the villa (block A) and the rear dwellings (block B) and minor variations to the landscaping strategy, and; 2) subject to the views of highways and the response of the architects to the suggestion of moving plot 12 forward on the site, and; 3) subject to the completion of a s106 legal agreement (in respect of the options to either deliver affordable housing and any relevant contributions or provide the full range of SDLR and sustainable development contributions) by 17 May 2013.

In the absence of a completed 106 legal agreement by 17 May, the application will be returned to committee for reconsideration.

### **Statutory Determination Period**

This is a major application for which the decision due date is 17th May 2013. Given the Government's clear stated ambitions to secure quicker permissions for major development it is important that this application is approved within the 13 week time period if at all possible. However, if the s106 is not completed by 17 May then rather than refuse an application for affordable housing it will be returned to the next available committee meeting for further consideration.

### **Site Details**

Vacant site of the former Meadowfield Hotel on the eastern side of Preston Down Road, opposite its junction with Langdon Road, now with planning permission for residential redevelopment.

### **Relevant Policies -**

Torbay Local Plan 1995-2011 -

- H2 New housing on unidentified sites
- H6 Affordable Housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- CFS Community Infrastructure Strategy
- CF6 Community Infrastructure Contributions
- CF7 Education contributions
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- T25 Car parking in new development
- T26 Access from development onto the highway.

### **Detailed Proposals**

Permission is sought for 2 blocks of residential dwellings on the site, the first roughly in line with the established building line on this part of Preston Down Road and the second behind towards the rear of the site. A new access way into the site is shown and 17 car parking spaces are indicated as a mixture of garaging and surface parking. Some landscaping is provided around the dwellings to soften the scheme.

### **Summary Of Consultation Responses**

*Torbay Development Agency (Affordable Housing Unit)* Make the following comments: of the 12 units in this application, 6 are proposed to be larger affordable family homes, which is a strategic priority for Torbay.

As of Tuesday 19th March 2013 there were 3024 households on the housing waiting list for rented accommodation and 385 for shared ownership accommodation. The homes in this application have achieved Government funding to ensure that they are all affordable and will be used to house families from Torbay council's housing waiting list which is to be commended. These homes will help meet the needs of local people in housing need and also meet the strategic priorities of Torbay Council, therefore Housing Services are fully supportive of this application.

*Environmental Health Officer* Views on the submitted contamination assessment report still awaited

*Highways / Strategic Transport* Highways raise no objection in principal providing confirmation that a visibility splay of 43m at 2m back from the junction can be achieved at the proposed access onto Preston Down Road in both directions. This distance can be reduced if it can be shown by the Applicant that the 85th percentile speed is less than 25mph, in which case the distance required would be 33 metres, or if under 20 mph just 25 metres, as specified in Manual for Streets. Any hedging or boundary wall at the access should also be less than 0.6metres so as not to obstruct visibility.

Given the close proximity to the road of the properties at the rear, Highways would also consider the access road as private parking courtyard and so maintenance and use not to be the responsibility of this Authority. This is particularly relevant to the eventual management and control of the use of visiting parking bays and ongoing maintenance of landscape areas and road surface.

A sustainable transport contribution is required which will be used towards footway improvements opposite the site and cycle network enhancements that will connect the area with the Torquay, Paignton, and Brixham Town Centres.

This accords with the Local Authority policy document aiming to improve sustainable transport opportunities and enabling travel by sustainable modes,



particularly for short journeys. The works are described within the Local Transport Plan 3, Devon and Torbay Strategy 2011-2026 and is a Foundation Scheme detailed within the Local Transport Plan 3 Implementation Plan (Part B: Torbay) March 2011, section 7 – particularly 7.4.

### **Summary Of Representations**

Representations have been received from the neighbouring occupiers at 9A, 13 and 15 Preston Down Road:

The issues raised in the representations are as follows:

Overdevelopment of a restricted site  
Highways impact of the additional dwellings  
Over dominance / over bearing impact on neighbouring residents  
Opportunity to reduce impact of plot 12 on 9a Headland Park Road by moving it forward on the site  
Overlooking to properties at rear and side  
Number of parking spaces  
Design / three storey nature of the properties  
Land contamination

### **Relevant Planning History**

P/2010/0794	Non material amendment - Amendments to design of plots 2 and 3 to application P/2008/1296/PA. Approved 17/08/2010
P/2008/1296	Residential development to form 8 houses with vehicular/pedestrian access. Application Permitted.
P/2008/1030	Sub division of apartment no.12 into 2 no.1 bedroom flats. Application Permitted.
P/2007/1132	Variations To Elevations And Site Layout (Ref App P/2006/1508/PA). Application Permitted.
P/2006/1508	Demolition of hotel and erection of 12 apartments with vehicular/pedestrian access. Approved 21/12/2006
P/2006/0911	Demolition of hotel and erection of 12 apartments with vehicular/pedestrian access. Presented to Committee 31/7/2006 and subsequently withdrawn to allow for negotiations on design.
ZP/2006/0548	Pre-application enquiry to determine the likelihood of permission being granted for the redevelopment of the site with 12 flats, 15 parking spaces and a cycle store. Decision letter dated 6/6/2006 stated that planning permission would be likely to be granted, in principle, subject to seeing the detail of the scheme.
P/2001/0013	Erection of extension to form laundry and stores. Permission granted 23/2/2001.
P/1991/1460	Two storey extension to form 2 flats for owners'

P/1987/O539 accommodation. Permission granted 2/12/1991.  
Ground floor and second floor extensions, erection of covered swimming pool and alterations to vehicular access. Permission granted 8/9/1987.

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

#### **Principle**

The principle of the loss of the hotel has already been established and the hotel has now been demolished. Indeed 12 residential units have already been established on the site with the 2006 permission, albeit that the consent at the time was for apartments. This application seeks consent for a different layout of the site and different appearance for the properties. The continuation of the 2008 consent for dwelling houses as well as flats on the site is welcomed.

#### **Density**

This application proposes 12 residential units on an area of approximately 0.17 hectare which roughly equates to 71 units to the hectare. Although this is high, it equates to the permission already granted in 2006. The primary consideration has to be whether or not the density would unduly impact upon any neighbouring property or the prevailing character such that it is considered unacceptable.

In this instance the dwellings are not positioned such that it could be concluded that the site is being overdeveloped. The development follows the general stepping down of roof heights along Preston Down Road, the height and bulk of the apparent development in the street is typical of its surroundings and of recent consents on the site. Further discussion on the relationship between the proposed development and surrounding buildings follows below.

#### **Residential Amenity**

The living conditions of the adjacent occupiers are an important consideration here. The development will take a similar approach to the scheme for 8 houses approved in 2008, with frontage development on the Preston Down Road and a block of dwellings to the rear.

The rear block of dwellings sits further back into the site than the previous approval for 8 units (as shown dotted on the layout plan). This will alter the relationship with the properties behind on Headland Park Road and to the sides at 34 Preston Down Road, 9a Headland Park Road and 15a Headland Park Road.

It is understood that the trees to the rear (off site) may be removed in the near future (one of the representations refers to the desire to see these trees removed). These trees currently screen the existing properties at Nos 11 to 15 Preston Down Road from the new development. However, the back to back distances will remain more than 30 metres to the rear, even with the

development moving back into the site towards Headland Park Road. Although the proposed dwellings to the rear are at 3 storeys, the height is not distinctively different to the prevailing height in the area given that the existing villas include much higher floor to ceiling heights. In addition the proposed 2nd floor accommodation is set within the roof of the new development.

The relationship with the properties to the side also demands consideration. The side elevations of plots 7 and 12 do not include windows (there is a ground floor access door only) and this assists in protecting privacy of the adjacent properties. In addition, the side to back relationship is mitigated by the inclusion of Dutch hips to the sides of the roofs and the insertion of the 2nd floor of the dwellings into the roofs.

The relationship between properties can be judged at the committee site visit, but officer's view is that this is acceptable.

The residents at number 9a have requested that consideration be given to moving forward plot 12 to align with plot 7. This would reduce the impact on 9a and bring plot 12 closer to the approved site of the dwellings under the 2008 approval. This would impinge upon the side access to plot 12 and would result in a different relationship with No. 34 Preston Down Road. The architects have been asked to explore this request and provide a response, which will be reported at the committee meeting.

### **Layout and Design**

The layout roughly follows that established by the previous consents, and is not considered to be a cause for concern. The units are slightly smaller than previously granted permission, but this allows for a greater degree of landscaping on the site. Although some of the end units would be positioned close to party boundaries, they have been designed such that there would not be any loss of privacy through overlooking, nor loss of light. The end units do allow for access to the sides of the properties, but this is fairly standard with most proposals for dwelling houses.

The design and appearance provides a principle villa form to the flats at the front of the site and a number of dwelling houses to the rear of the site. This relates well with the predominant urban grain and form with a number of semi-detached and detached villa's with development behind being characteristic of this part of Preston Down Road. The dwellings to the back of the site are set back substantially from the street.

There are a number of minor outstanding matters in relation to the detailed design of this scheme. These relate to the need to refine the elevations to emphasise the villa form of the main block (A) and de-emphasise the return rear wing of the villa. In addition to emphasise the subservience of the rear block (B) by reducing the use of strong gables and balconies and pairing down the

treatment of the main elevation. In addition, there is a need to vary the landscaping scheme to ensure that this fully complements the development and is manageable in the longer term.

### **Land Contamination**

The representation from the neighbouring objector at No. 13 Headland Park Road cites concerns relating to land contamination. This stems from the submitted geo-technical report on ground conditions which lists Benzo-a-pyrene as a substance that is present on the site.

The applicants have stated that negative pressure tenting will not be required given the very low levels of contamination that have been discovered. The usual dust suppression techniques are therefore envisaged to be more than adequate during the remediation process.

Given the importance of protecting local receptors and ensuring that appropriate techniques are used to remediate / cap any contaminated land, the views of the Environmental Health Officer in this respect will be reported at the committee meeting.

### **Ecology**

The ecological report submitted with the application finds very limited habitat of value for birds, mammals, reptiles or bats and no substantive evidence of any protected species on the site. The recommendations in the report include a condition to control scrub clearance (to be outside of the bird breeding season) and to include new planting within the landscaping scheme that is a positive benefit for biodiversity. The landscaping scheme is to be re-visited to ensure that this advice has been pulled through into the scheme.

### **Car Parking**

The site provides for 17 spaces to serve the 12 dwellings. These are a mixture of garaging and surface parking. Technically the site should have 18 spaces, although the standards within policy T25 of the Saved Adopted Torbay Local Plan state that 2 1/2 spaces per unit is a maximum that should be allowed. The site is within walking distance of Preston shops and a complete range of facilities as well as being on a bus route.

A number of representations cite parking as a concern, the view expressed is that the numbers are too high and that this will have an impact on highways safety and congestion. The views of the highways officer have been requested, but given previous consents, the level of visibility and the number of parking spaces being broadly in line with policy, it is considered that the parking proposed is acceptable. Therefore subject to a legal agreement to secure Sustainable Transport Contributions, the proposal is considered to be acceptable in this regard.

### **S106/CIL -**

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 Community Infrastructure Levy Regulations 2010. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March 2011. More recently, at Full Council on 6th December 2012, Members agreed to seek contributions towards the South Devon Link Road (SDLR), where it is lawful to do so.

Contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size. Financial contributions will be due for the following items - the South Devon Link Road, municipal waste and recycling, sustainable transportation, Education, lifelong learning, and green space/recreation. It has now been clarified that the contribution towards the South Devon Link Road shall not be an additional cost, but that other sustainable development contributions shall be reduced by a percentage equal to the amount of the SDLR sum, such that the overall burden of contributions is not increased.

The relevant SPD on Planning Contributions does make clear that sustainable development infrastructure contributions will not be sought on social rented housing and a 50% discount will apply to on-site intermediate housing units provided through an RSL. As such the relevant s106 will provide for reduced contributions in the event that affordable housing tenures are delivered on the site. Members are asked to give Officers delegated responsibility for resolving the s106 in line with policy.

### **Conclusions**

This proposal is for the provision of much needed affordable housing at a density approved under the 2006 consent. It is not considered that the proposal would lead to any problems with overlooking or loss of light. Car parking is accepted as being appropriate and the access way into the site has been established in previous consents. The proposal is therefore acceptable subject to a Planning Obligation, should one prove necessary. This is also subject to the views of highways, Environmental Health and to the revision of the plans in line with the discussion above.

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

01. 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 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.

02. The development hereby approved shall not be used or occupied until all of the garages and/or car parking areas 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.

03. 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.

04. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which 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 interests of the amenities of the area, and to accord with policies BE1 and BE2 of the Torbay Local plan (1995 – 2011), adopted April 2004.

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) whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar

size and species, unless the Local Planning Authority gives written consent to any variation.

Reason In the interests of the amenities of the area, and to accord with policies BE1 and BE2 of the Torbay Local plan (1995 – 2011), adopted April 2004.

06. Any requirements as may be submitted by the Environmental Health Officer in respect of potential land contamination.

**Relevant Policies**

-

# Agenda Item 8

**Application Number**

P/2013/0194

**Site Address**

Eastern Esplanade  
Paignton Seafront  
Paignton  
Devon

**Case Officer**

Mr Scott Jones

**Ward**

Roundham With Hyde

**Description**

Change of use from public highway to public car park; use as events area for up to 60 days per annum

**Executive Summary/Key Outcomes**

The application site relates to the Eastern Esplanade, a linear stretch of highway approximately 700 metres long by 15 metres wide that is located between Paignton Green and the promenade and Paignton Sands beach. The site includes the adjacent landward footpath but excludes the seaward promenade.

The application seeks to formally change the use of the land from designated highway (Sui Generis) to public car park (Sui Generis) with use for events for up to 60 days per annum. There are no physical or operational changes proposed as part of this application (other than formalising the potential use for events for up to 60 days per annum).

This is a Council application made by the Authority's e Highway Department. The reason for the application is not to alter the management or operation of the land, but to reduce the level of official procedures required to undertake the current operations. The proposal includes up to 60 days of events as it is envisaged that the move would trigger greater flexibility for the development and staging of events on the land. The current highway designation restricts both the number and type of planned closures per year for permitted activities.

In the absence of any physical or operational change, other than to formalise the potential for the use of events for up to 60 days per annum, the impact of the change of use of this stretch of highway with parking is considered to be positively beneficial. The change will enable better management of the space in terms of its positive contribution to the local economy, through event uses and uses to support the adjacent green and beach.



### **Recommendation**

Conditional Approval; Conditions relating to hours of operation for events and implementation of the proposed measures cited within the accompanying Flood Risk Assessment.

### **Statutory Determination Period**

13 weeks / Determination date 25th May 2013.

### **Site Details**

The application site relates to the Eastern Esplanade, a linear stretch of highway approximately 700 metres long by 15 metres wide located between Paignton Green and the promenade and Paignton Sands beach. The highway has a linear footpath along its landward side and the vehicular area is demarcated with a designated cycle route and formalised parking spaces along the majority of the seaward flank. Vehicular access is gained from the East through Paignton Green opposite the pier, which splits to one way system to the North and South and to exit points. In regard to land designations a large proportion of the site sits within an Urban Landscape Protection Area (ULPA) (North of the cinema) and is within the Coastal Protection Zone (CPZ). Further to these designations the site is within a high risk flood zone (Category 3A) and the cycle route through the site is locally designated.

### **Detailed Proposals**

The application seeks a change of use of the land from public highway (Sui Generis) to public car park and use of the area for events up to 60 days per annum (Sui Generis). No physical or operational changes to the land are proposed.

### **Summary Of Consultation Responses**

*Environment Agency:* No objections to the proposal providing the development proceeds in accordance with the submitted Flood Risk Assessment (FRA).

*Highways Officer:* No objection, provided that the cycle route along this stretch of highway is always maintained.

*Environmental Health and Protection:* Confirmed that they wish to offer no comment.

## **Summary Of Representations**

27 letters of representation received, 23 being duplicate standard letters. The key issues covered include the following;

- The change from public highway will remove the public's right of free access and owners could then close the road and charge for access
- Health and safety concerns as the road is particularly well used in the summer months, especially with use of the beach and geopark play area
- Public consultation should have been carried out prior to the application and the matter should be withdrawn and addressed
- No information on what types of events and when they would be held
- The change of use would have a visual impact upon the area
- Concern on whether the proposed use will make it harder to clear the area of cars for events in the evening
- Support the notion of any proposed change to make it easier to open and close the parking area and the reduction in paperwork and associated costs for event organisers.

## **Relevant Planning History**

P/2002/0065/R3      Use of public open space for exhibition and event use (max 28 days), charitable events (max 56 days) funfair with fairground operators caravans (max 42 days) and gallopers funfair ride with 2 other traditional rides between Friday spring bank holiday to Monday August holiday each year. Approved 15.03.2002, with Conditions relating to hours of operation and a yearly schedule of proposed uses.

P/2009/0366      Siting of fairground roller coaster use in July and August only - Approved 05.06.2009, with Conditions relating to hours of operation and operation within July and August only.

## **Key Issues/Material Considerations**

The key matters to consider are access and movement issues, visual implications, economic considerations, local amenity issues, flood risk matters and the likely impact upon the Coastal Protection Zone.

### *Highways/Access/Movement:*

The change of use from highway to public car park and occasional events raises a number of points in respect to access and movement.

Firstly de-regularising the highway would extinguish the right of public passage

on and through the land, which is a core concern raised in public representations. The proposal seeks to maintain the physical form of the land, the use and its open nature. It is envisaged that the public's day-to-day use and experience of the space would not alter as a result of the application.

Public concern has been raised in regard to the conflict of the proposed use with pedestrians, certainly during the summer months. In regard to public/pedestrian safety the operation and management of the land is stated to remain unchanged and, with the current use of the land being a highway, albeit closed at certain times of the year at the discretion of the highway authority, the proposed use is considered no more impacting than the current use.

A cycle path runs through the length of the site and public concern has been raised over the impact of the proposals upon this. The cycle path is a locally designated cycleway and the status of the cycle path will remain unchanged by the application and will continue to form part of the wider cycle network and coastal route. Strategically there appears no direct impact upon the cycle route whether it runs on a highway or through a car park.

The beach side promenade between the sea wall and the beach will not be affected and does not form part of the application site.

*Visual Implications / Impact Upon the Urban Landscape Protection Area:*

The site is sensitive to development due to its size, openness and strategically prominent location sandwiched between Paignton Green and the promenade and Paignton Sands beach. In regard to Policy guidance Policy L5 *Urban Landscape Protection Areas* is the clearest guide for how development should be considered. The policy principally states that development will not be permitted were it would seriously harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment.

There are two aspects to the proposal to consider. It firstly seeks to alter the designation of the land from highway to public car park without physical or operational change. Secondary to this it also seeks to use the land for events for up to 60 days per annum.

In regard to the first aspect, the change from highway to public car park, the absence of any physical or operational change would appear to offer a neutral visual impact. The implications of the secondary aspect of the proposals, that of introducing the use for events for up to 60 days per annum, is far less calculable due to the inherent unknowns as to what events would be held and what, if any, temporary structures would be forthcoming with them. The inherent temporary nature is likely to limit the impact of any temporary structures upon the value of the area and the open element it currently provides. Whilst the impact is unlikely to be discernibly different to the impact of events held on Paignton Green, Members may wish to consider whether the general scale and form of physical

elements should be submitted to the LPA for prior consideration, possibly on an annual basis.

Members may also wish to consider that the change of use from highway to public car park would essentially alter the scope for permitted structures to be erected. At present under Part 13 of the General Permitted Development Order the Highway Authority is permitted to carry out works incidental to the maintenance or improvement of the highway. Under Part 12, which would be enacted once the land is no longer highway, the Local Authority would be able to erect small ancillary buildings up to 4 metres high or 200 cubic metres in volume. Members may wish to consider whether the LPA may wish to control the potential for such structures via the part removal of Permitted Development.

*Economic Issues:*

The accompanying planning statement states that key driver for the proposed change is to enable the space to be managed more flexibly and more efficiently by the Authority, without the need for physical or operational change. The accompanying planning statement cites that under current traffic regulations the process to achieve temporary closures and the general scope to offer events on the land is prohibiting a more diverse use that could be supporting of economic and tourism aspirations of the Authority. The endeavour to support the staging of local events is considered acceptable in this area and supportive of similar events usage on the Paignton Green. It also considered commensurate with wider authority goals to support the economy.

The right of access to existing businesses is stated as being unchanged.

*Local Amenity Matters:*

As previously stated the principal use of the land will remain unchanged, as it will continue to operate as a linear 'road' with parking along its coastal flank. There will be no impact upon local amenity from noise or disturbance through the basic maintenance of the established use.

In regard to the formalised introduction of events use for up to 60 days per annum it would appear that the site is largely isolated from residential areas and has closer ties to adjoining business uses in and around its borders. Notwithstanding its physical isolation the site is extremely open and prominent and the implications of formally introducing public events should be carefully considered.

The scale of events, i.e the number of days permitted per annum, appears commensurate with that previously considered acceptable on the adjacent Green. It is noted that the adjacent Green approval operates with an hours of opening restriction for events, which protects against undue impact upon the

amenities of the local area through noise and wider disturbance. Due to the proximity of the site with the Green and the similarity of the proposals it is considered fitting to attach a similar time restriction on events, i.e. not to be held between the hours of 11.30 pm and 10.00 am.

*Flood Risk*

The site lies within Flood Risk Zone 3(A), where the flood risk is from coastal flooding caused by overtopping of the nearby sea wall. The application is supported by a Flood Risk Assessment (FRA) that identifies that the proposal will have no or very little effect on any flooding issues and would not alter the flow of any flood water. It does however clarify that the effects of severe weather and flooding upon the operation of the car park and sporadic events does need to be considered.

In mitigation it proposes that the Authority, as operator, should register with the Environment Agency Flood Warning Team in order to receive early warnings. Following the receipt of severe weather warnings operators should discuss flood risk issues with the Council's Emergency Planning Team.

The FRA concludes that there are no reasons on flood risk grounds why the proposal should not proceed. The Environment Agency has confirmed that they have no objection to the proposal providing development proceeds in accordance with the submitted FRA.

*Impact Upon the Coastal Protection Zone:*

Policy EP12 *Coastal Protection Zones* of the Saved Adopted Torbay Local Plan outlines that development or change of use shall only be permitted when in accordance with six criteria. These relate to the natural and historic environment, the local economy, creating need for further coastal protection, flood risk, regeneration and compatibility with landscape protection (Local Plan pages 181-182).

With no physical or operational change proposed to the general layout or car parking facility the continuation of the current operation is not considered to conflict with the Policy aims of EP12. The proposed use of the area for events for up to 60 days per annum does introduce a new facet of use, however this is considered appropriate for this coastal location, certainly when appreciative of the location of the site immediately adjacent to Paignton Green, which has similarly established events use. The proposal is therefore considered in accordance with the policy ambitions for Coastal Protection Zones.

**S106/CIL** - Not Applicable

## **Conclusions**

The proposal would not significantly affect the character of the area as no operational or physical change is proposed. The introduction of up to 60 days for events use is considered complementary for the area for residents and visitors alike and would help strengthen and develop the local economy.

The temporary nature of structures associated with likely events would result in the limited potential for the cause of any long term harm to the amenity of the area.

Should members be minded to approve the proposal the following conditions are advocated;

01. Events shall not be operated between the hours of 11.30 pm and 10.00 am daily

02. Flood risk mitigation measures outlined within the Submitted FRA shall be adhered to at all times following the commencement of the proposed use

Members may also wish to consider whether it would be pertinent to attach further conditions in respect to;

01. Annual submission of details of events including layout and form of expected temporary structures;

02. Removal of Local Authority Permitted Development for small ancillary buildings (which permits buildings not exceeding 4 metres in height or 200 cubic metres)

## **Relevant Policies**

- RS Recreation and leisure strategy
- R2 Outdoor recreation developments
- R11 Footpaths
- TS Land use transportation strategy
- T2 Transport hierarchy
- T3 Cycling
- T26 Access from development on to the highways
- T27 Servicing
- EPS Environmental protection strategy
- EP12 Coastal Protection Zone

**Application Number**

P/2013/0214

**Site Address**

Oldway Mansion  
Torquay Road  
Paignton  
Devon  
TQ3 2TY

**Case Officer**

Mrs Ruth Robinson

**Ward**

Preston

**Description**

Revised footprint of proposed indoor bowling club Oldway Mansion and changes to elevation

**Executive Summary/Key Outcomes**

This application forms a revision to the wider application for development within the grounds of Oldway Mansion approved in August 2012 under Application No P/2011/0925.

The site wide application was for the refurbishment and change of use of the buildings on the site to a hotel complex with enabling residential development to help fund the restoration works.

This application relates solely to the replacement indoor bowling club which is to be located adjacent to the tennis courts in what is described as the Hippodrome. The changes are to the footprint, the foundation design and to the main elevation.

The new position for the footprint does intrude into the historic bund which runs along the southern boundary of the site and this requires the construction of a small retaining wall. However, the change to the foundation design which involves piled foundation rather than the excavation of the entire floorplate enables the retention of the sandstone retaining walls that bound the site, which consequentially assists in retention of trees.

The alterations to the elevation are thought to be acceptable.

**Recommendation**

Approve the application as an amendment to P/2011/0925; subject to their being no objections received raising new issues (not covered in this report) following the expiration of the consultation period on 11th April.

An informative is required to confirm the status of the application and to clarify that the conditions pursuant to the parent application apply to the revised scheme.

### **Statutory Determination Period**

This application should be determined within the 8 week target period, which follows after the expiration of the consultation period on 11th April.

### **Site Details**

Oldway Mansion is a Council owned II\* listed building within a parkland setting on Torquay Road, Paignton. Until recently it was used as Council Office space but has now been vacated pending refurbishment proposals. This will see the main buildings converted to hotel use with residential 'enabling' development within the grounds to fund the wider proposals. As part of these proposals, the existing indoor bowling club is to be relocated to a position adjacent to the tennis courts in the 'Hippodrome'.

The site for the proposed bowling club is currently grassed, is bounded on 3 sides by a red sandstone retaining wall which supports a variety of trees and is enclosed along the southern edge of the site by the historic 'eastern bund'.

### **Detailed Proposals**

This is a revision to the parent approval P/2011/0925 and involves changes to the footprint of the building and to the main elevation of the building.

### **Summary Of Consultation Responses**

*Conservation Officer* is satisfied with the change to the appearance of the building.

*Arboricultural Officer* is satisfied that the proposal is beneficial and has a reduced impact on adjacent trees.

### **Summary Of Representations**

None

### **Relevant Planning History**

Forms part of the wider parent application for development within the grounds of Oldway Mansion P/2011/0925.

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

This application forms a revision to the wider application for development within the grounds of Oldway Mansion approved in August 2012 under Application No P/2011/0925.



The site wide approval was for the use of the buildings on the site as a hotel complex with enabling residential development to help fund the refurbishment of the buildings and grounds. As part of this scheme, the Indoor Bowling club is to be relocated to a new clubhouse on the Hippodrome site.

The original approval involved excavation to accommodate the floorplate, and due to this and its orientation, the development resulted in the removal of a proportion of the stone retaining walls that bound the site. The excavation and works to the walls also resulted in the possible loss of up to 11 trees of varying health and quality.

This revision has arisen from the evolving requirements of the bowling club members and from a more detailed look at how the structure is to be constructed.

It involves relocating the footprint closer to the historic bund and the construction of a small retaining wall. It involves 'handing' the main elevation so that the entrance feature is more subservient and some changes to its appearance in terms of removal of a canopy.

It is now proposed to pile the foundations rather than excavate. This is far less destructive and allows the sandstone walls to be largely retained along with several trees that would have been vulnerable under the original proposal.

Whilst one of the benefits of the excavation was a reduction in the overall height of the building this revision will not lead to an increase in height as changes in construction have enabled the same finished roof height level to be achieved. It will also retain the green roof which is important in mitigating the views from Oldway.

The changes to the elevation are minor and involve 'handing' of the main entrance feature and the loss of a canopy which was a useful device in terms of breaking up the mass of the building. However, changes in the materials to be used acts in a way to reintroduce the relief and the handing of the entrance feature results in a more subservient relationship in terms of views from Oldway itself.

### **Conclusions**

The changes to the scheme are beneficial overall and ensure the retention of a greater number of trees and the retention of the stone retaining walls. The incursion into the historic bund is minor and subject to details in respect of materials to be used, will be acceptable. The changes to the elevation are acceptable and overall have a marginally reduced impact on views from Oldway.

## **Relevant Policies**

-

**Application Number**

P/2012/0078

**Site Address**

Westhill Garage  
Chatto Road  
Torquay  
Devon  
TQ1 4HY

**Case Officer**

Mrs Helen Addison

**Ward**

St Marychurch

**Description**

Extend time limit - residential development comprising 8 houses, 3 flats, 2 bungalows and 2 maisonettes (15 units in total) with vehicular/pedestrian access - application P/2009/0422

**Executive Summary/Key Outcomes**

This application for the construction of 8 houses, 3 flats, 2 bungalows and 2 maisonettes (15 dwellings in total) was conditionally approved at the meeting of the Development Management Committee on 12.3.12 subject to the S106 agreement being signed within 6 months of the decision. The completion of the S106 agreement has over run this timescale and is shortly due to be finalised. An extension to the period for completing the S106 agreement is requested.

**Recommendation**

Subject to the signing of a S106 Legal Agreement in terms acceptable to the Executive Head of Spatial Planning, within 3 months of the date of this committee meeting conditional planning consent be granted. Conditions are set out at the end of the report. If the Legal Agreement is not completed within this time period that planning permission be refused on the grounds of lack of a S106 agreement to mitigate the effect of the proposal on infrastructure in the area.

**Statutory determination period**

The 13 week date for determination of the application was 26.4.12

The delay in issuing a decision has been due to the completion of the S106 agreement. This has mainly been on the applicant's part, although there was some delay by the Council as well. A draft S106 agreement was sent to the applicant's solicitor in September 2012 and no response has been received by early March 2013.

**Site Details**

Existing garage located on the east side of Chatto Road, south of the junction

with Westhill Road. The site incorporates the existing garage, the 'barn' to the south of the site and an area to the north east of the garage. Adjoining the site to the north are two terraces of houses which have been completed in the last few years.

Chatto Road slopes in a southerly direction past the site. The majority of the site is visible in the street scene. There is a low stone wall along the front boundary. The surrounding area is predominantly in residential use. There is no allocation relating to the site in the Torbay Local Plan 1995-2011.

### **Detailed Proposals**

This application is submitted as a renewal of application reference 2009/0422. It is for the construction of a terrace of 4 x 2.5 storey dwellings, each containing 3 bedrooms along the western frontage of the site, facing Chatto Road. Adjoining this on the north west corner would be a corner building containing 3 apartments. Along the northern edge of the site would be a terrace of 4 x 2 bed, 2.5 storey houses; this along with the adjoining bungalow for a disabled person would constitute the affordable element of the scheme. To the rear of this, to the east of the site would be located a 2 bedroom bungalow and to the rear of this (south east), the existing stone barn would be converted in order to create 2 x 2 bed flats. Pedestrian access to the rear of the site would be adjacent to 59 Chatto Road, to the east of the proposed bungalows. 15 parking spaces would be provided to within the area of land to the north east of the site, two spaces would be provided in front of the bungalow, including a disabled parking bay and 3 spaces would be provided adjacent to the barn, accessed from Daison Crescent.

### **Summary Of Consultation Responses**

*Historic Environment Officer:* Recommends a condition requiring a programme of archaeological work prior to development.

*Highways:* Object to the proposal due to inadequate visibility, turning space is shown on adjacent land in different ownership, the junction would be opposite Main Avenue, creating a cross roads situation, insufficient parking provision. Requires provision of cycle parking.

*Environmental Health Officer:* Consultation response awaited. (Requested a land contamination condition in respect of application 2009/0422).

### **Summary Of Representations**

Two letters of objection have been received, raising the following issues;

- Constitutes over development of site
- Proposed access is immediately opposite Main Avenue and close to the busy junction of Chatto Road and West Hill Road, sight lines are poor and there are

two bus stops nearby.

- Proposal would result in increased on street parking and increase in traffic.

### **Relevant Planning History**

P/2003/1668	Alterations and extensions to form new MOT bay, installation of roller shutter doors. Refused 4/12/2003.
P/2004/0343	Alterations and extensions to form new MOT bay, installation of roller shutter doors (revised scheme). Approved 26/4/2004.
P/2006/2017	Formation of 22 one and two bedroom flats and 22 parking spaces plus 2 visitor spaces single "cottage industry" unit within existing building with 2 allocated parking spaces. Withdrawn 08/02/2007.
P/2008/0378	Formation of 12 no 3 bedroom houses and 6 no 1 bedroom flats with retention of a single "cottage industry" unit with 16 parking spaces and vehicular/pedestrian access. Refused 20/5/08.
P/2008/1393	Formation of 8 no 3 bedroom houses, 4 no 2 bedroom houses and 1 no bungalow for disabled persons together with formation of 2 no 2 bedroom maisonettes within an existing stone barn with vehicular/pedestrian access. Refused 29/12/08.
2009/0422	Residential development comprising 8 houses, 3 flats 2 bungalows and 2 maisonettes (15 units in total) with vehicular/pedestrian access approved 28.7.09

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

The key issues in determining this application are considered to be (1) the impact on visual amenities, (2) the impact on neighbour amenities, (3) the impact on highway safety, (4) Archaeology and (5) S.106 requirements.

### **Impact on visual amenity**

Following refusal of application reference 2008/1393 the design and layout of the proposed scheme were revised to achieve an acceptable form of development under application reference 2009/0422. Since this previous decision there has been little change in policy which would affect the consideration of this proposal.

The proposal would provide frontage development facing Chatto Road which would be consistent with the established character of the area. There would be a feature building on the corner which would provide the development with a focus at the entrance. This building would be set back from the building line which would reduce its visual impact as it would be 4 storeys in height. The street scene elevation shows that the height of the 4 storey element would be similar to the adjoining terrace of dwellings to the north. Development at the rear of the

site would consist of two bungalows. The principle of a terrace of dwellings would be consistent with the character of the area. The density of development on the site would be higher than the surrounding area as the proposal would make effective use of site.

### **Impact on neighbour amenities**

The construction of bungalows at the rear of the site would result in no adverse impact on the amenity of the occupier at 14 Daison Crescent. It is noted that the roofs of the bungalows would be pitched and would slope away from this property. The proposed dwellings adjacent to 59 Chatto Road would be at a sufficient distance from this property to prevent an adverse effect on residential amenity.

### **Highway safety**

The Highways Officer has repeated his previous advice in respect of the proposal which raises concern about highway safety. Traditional guidance on highways matters was that no more than 5 dwellings should be served off a private drive and as such a road serving a development of this size should be adopted. Due to the physical constraints on the developable area of this site and the visibility problems at the entrance the access would not meet the criteria for being adopted. Advice to Members previously was that the Manual for Streets which was produced in 2007 provides updated advice on highways matters and makes it clear that this is not a formal requirement. The existing use of the garage, by its very nature attracts a high number of vehicular movements, and the proposed layout will improve visibility from what exists at present, by removing the car display area from the frontage of the site. The cross roads situation referred to by the highways officer already exists as the proposed access point is that of the adjacent development. This is a busy section of road, near a bus stop, opposite a junction and with lots of parked cars on the road. However these hazards serve to slow down the traffic in the area. As such whilst it is accepted that from a technical point of view the proposed access may not be ideal, a precedent has been set and it is not considered reasonable to withhold consent on the basis of poor visibility at the access.

19 parking spaces are proposed for the 15 units. This ratio is considered to be reasonable given the proximity to bus routes and the relatively close proximity to local facilities. There is considered to be adequate turning facilities on the site without the need to encroach on the adjoining site, should it become unavailable. Therefore on the issue of highway safety the scheme is considered to be acceptable.

Since the previous decision the Manual for Streets has been updated. In addition parking standards have been reduced. Further discussions will be held with the highways officer on this matter to look at whether there is the potential

for any alterations to improve the situation.

### **Highways update**

The applicant revised the access to the proposed development to improve the visibility splay and alter the access to Chatto Road. The highways officer has advised that subject to the provision of cycle parking the proposed development would be acceptable in highway terms.

### **Archaeology**

An archaeological survey of the site will be required as there is potential for prehistoric, Roman and Medieval remains on the site. This can be addressed by means of a condition.

### **S106/CIL -**

The application will provide 15 units of accommodation which would increase the burden on local services. Section 106 of the 1990 Planning Act provides a mechanism for recouping these costs from the developer.

Since determination of application reference 2009/0422 the Council's Supplementary Planning Document "Planning Contributions and Affordable Housing" has been updated. In accordance with this the following contributions would be required;

- Waste Management	£ 550
- Stronger Communities	£ 1630
- Lifelong Learning	£ 3060
- Greenspace	£16108
-Loss of Employment	£12390
-Sustainable Transport	Nil
<b>TOTAL</b>	<b>£26,049.15</b>

### **Affordable Housing**

- Social Rented – 3 x 2 bed houses
- Shared Ownership – 1 x 2 bed house and 1 x 1 bedroom disabled bungalow

It should be noted that the contributions currently requested are £7130 higher than paid in respect of application reference 2009/0422.

### **Conclusions**

In conclusion, the proposal is to renew a previously approved scheme for residential development on the site. There has been no material change in circumstances since the previous decision, and therefore there is a presumption that planning permission would be granted. The principle of residential development on this site would be acceptable due to it being consistent with the

predominant use of the surrounding area.

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

01 Prior to the commencement of the development hereby approved details of the proposed materials to be used in the external construction of the buildings and in any hard surfaced areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in the approved materials.

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

02. Prior to the commencement of the development hereby approved details of the proposed windows, doors and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason: In the interests of the visual amenities of the locality, in accordance with policies BES, BE1 and H2 of the Saved Adopted Local Plan 1995 – 2011.

03. Prior to the commencement of development, the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing by the Local Planning Authority:

(a) A preliminary risk assessment/desk study identifying:- All previous uses;- Potential contaminants associated with those uses;- A conceptual model of the site indicating source, pathways and receptors;- Potentially unacceptable risks arising from contamination at the site.

(b) A site investigation scheme, based in (a) to provide information for an assessment of the risk to all receptors that may be affected, including those off site.

(c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

(d) A verification report providing details of the data that will be collected in order to demonstrate that the works set out in (c) are complete and identifying any requirement for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these agreed elements require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason: Due to the fact that the site used to be a garage and the potential for contamination. In accordance with policy EP7 of the Saved Adopted Local Plan



1995 – 2011.

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

Reason: Where an important archaeological site will be materially damaged or destroyed as a result of development following the granting of planning permission, the developer will be required to make provision for its archaeological recording, preservation, storage and publication as a condition of the permission, in accordance with Policies BE9 and BE10 of the saved Torbay Local Plan 1995-2011.

05. Prior to the first occupation of any of the dwellings hereby approved, the parking spaces shown on the approved drawings shall be laid out in accordance with the drawings and shall be maintained and kept available for parking purposes thereafter.

Reason: To ensure that adequate parking is available for future residents, in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995 – 2011.

### **Relevant Policies**

HS Housing Strategy  
H2 New housing on unidentified sites  
H6 Affordable housing on unidentified sites  
H9 Layout, and design and community aspects  
H10 Housing densities  
CFS Sustainable communities strategy  
BES Built environment strategy  
BE1 Design of new development  
TS Land use transportation strategy  
T1 Development accessibility  
T2 Transport hierarchy  
T3 Cycling  
T25 Car parking in new development  
T26 Access from development on to the highway  
PPS1 Delivering Sustainable Development  
PPS3 Housing  
PPS5 Planning for the Historic Environment

# Agenda Item 12

**Application Number**

P/2012/1259

**Site Address**

4 Bishops Rise  
Torquay  
Devon  
TQ1 2PJ

**Case Officer**

Mr Alexis Moran

**Ward**

Wellswood

**Description**

Formation of single storey dwelling in land part of garden at 4 Bishops Rise with all associated works and vehicular and pedestrian access

**Executive Summary/Key Outcomes**

Permission is sought for the addition of a bungalow to the rear dwelling of 4 Bishops Rise, Torquay.

The application is being considered by this Development Management Committee as the result of a referral from a site review meeting. Originally there were five letters of objection received from three different properties.

The key issues to consider in relation to this application are its massing, height, layout, 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.

When comparing the proposal in terms of plot size to the immediate properties on this side of Bishops Close it is slightly smaller but follows the existing pattern of development and is not significantly different to current urban grain. For similar reasons the proposal will not appear incongruous in the streetscene and would not have a significant impact on the character of the streetscene or the original property due to its height and scale. A small amount of external amenity space will be provided which is similar to that available to other properties on Bishops Close.

Although the existing properties on this side of the road are larger, developments with a similar appearance are common in the wider area; it is also considered that this provides a less dominant form of development to the plot which is slightly smaller than that of its neighbours.

Due to the low level of the proposed dwelling it is considered that its addition would have not a significant impact on the privacy and amenity of neighbouring properties as the windows would be at ground floor level. The external amenity

space would not have a significant affect the privacy of neighbouring properties.

### **Recommendation**

Approval

### **Statutory Determination Period**

17th February 2013 – this application has exceeded the statutory determination period as it was the subject of a site review meeting the result of which was that it should be determined at this Development Management Committee meeting.

### **Site Details**

The site relates to the rear garden area of 4 Bishops Rise, if approved the new dwelling would face Bishops Close. The rear garden is set down from the existing dwelling. There are three similar developments on Bishops Close.

### **Detailed Proposals**

The application seeks permission for the formation of single storey dwelling in the rear garden of 4 Bishops Rise with a garage associated works and vehicular and pedestrian access

### **Summary Of Consultation Responses**

*Highways* Raise no objection to this application.

A footway crossover will be required to access the driveway from the adopted public highway.

*Strategic Transportation* Request a SPD contribution of £2,350 (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 the enhancement of pedestrian links locally, specifically towards the local centre. This will encourage travel by sustainable modes and reduce wherever possible the requirement for travel by car.

There should be at least one secure cycle storage space for the dwelling unit

### **Summary Of Representations**

Letters of objection have been received from three different properties.

The key points made in the letters of objection were that the proposal would be;

- an overdevelopment of the plot
- out of keeping with streetscene
- lack of amenity space
- precedent
- loss of privacy

The application was the subject of a site review meeting the outcome of which was that it should be considered by the Development Management Committee.

### **Relevant Planning History**

ZP/2007/1268      Erection of dwelling to rear; a split decision was given with the proposal likely to gain support if it were single storey.  
29.11.2007

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

The key issues to consider in relation to this application are its massing, height, layout, 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.

When comparing the proposal in terms of plot size to the immediate properties on this side of Bishops Close it is slightly smaller but follows the existing pattern of development and is not significantly different to current urban grain. For similar reasons the proposal will not appear incongruous in the streetscene and would not have a significant impact on the character of the streetscene or the original property due to its height and scale. The proposed dwelling is to be a bungalow and although the other properties on this side of the road are larger, developments with a similar appearance are common in the wider area; it is also considered that this provides a less dominant form of development to the plot which is slightly smaller than that of its neighbours.

Due to the low level of the proposed dwelling it is considered that its addition would not have a significant impact on the privacy and amenity of neighbouring properties to the extent of warranting a refusal.

### **S106/CIL -**

As part of this process 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:

#### FINANCIAL CONTRIBUTION:

Proposed Dwelling	
Waste Management	£ 50.00
Sustainable Transport*	£ 1505.00
SDLR	£ 845
Lifelong Learning	£ 300.00

Education	£ 830.00
Greenspace	£ 2050.00
<b>Total</b>	<b>£ 5860.00</b>

\* This contribution has been reduced to allow the SDLR contribution.

### **Conclusions**

The application for the siting of a single storey dwelling is considered to be appropriate for conditional planning approval, having regard to all national and local planning policies and all other relevant material considerations. It is proposed that the conditions be delegated to the Head of Spatial Planning.

### **Relevant Policies**

- BE1 Design of new development
- BES Built environment strategy
- HS Housing Strategy
- H2 New housing on unidentified sites

# Agenda Item 13

**Application Number**

P/2013/0053

**Site Address**

Roebuck House  
Abbey Road  
Torquay  
Devon  
TQ2 5DP

**Case Officer**

Mr John Burton

**Ward**

Tormohun

**Description**

Development to provide 33 apartments including the conversion of Roebuck House from offices (B 1) (a) to residential development and the addition of two floors to create additional residential development; formation of car parking at lower ground floor level and all other associated infrastructure and associated development

**Executive Summary/Key Outcomes**

The principle of a change of use of the building has the potential to be acceptable if it is supported by a thorough and targeted marketing period and combined with an acceptable scheme for the re-use of the building (including a s106 package if viable).

In the event, the proposed development, with the addition of 2 storeys on the top of the building and the proposed re-cladding, is considered to harm the character and appearance of the Conservation Area. Notwithstanding the opportunity that the re-cladding provides for a fresh approach to its appearance, the cladding is not considered to have overcome concerns about the height, bulk and massing of the building, especially when combined with the additional height proposed.

This view is supported by the Building Heights Strategy, which is a useful piece of evidence base to support the New Local Plan and acts as a tool to assist in determining planning applications.

The submitted viability report supports the applicant's revised position that the scheme cannot afford to provide any affordable housing (on or off site) and neither can it afford any planning contributions to off-set the impact of the development. The Council has instructed a summary review of the submitted viability report and the findings of this review will be reported verbally at the committee meeting. However, the applicant's own viability assessment indicates that the two additional floors are not viable in themselves (i.e. the identified cost of providing the additional two floors is far in excess of the value attributed to the top two floors as open market flats).

The Government is intent on introducing a change to permitted development

rights such that consent would no longer be required to convert offices into residential use. This change is to come into force in May. However, there is, as yet, no confirmation as to what criteria a scheme would have to meet in order to be permitted development. Furthermore, whilst this has the potential to be a material consideration in relation to the principle of conversion, the key concerns with the submitted scheme relate to the physical changes proposed to the building.

Given that the combination of the additional storeys and the cladding to the building are considered to harm the character and appearance of the Conservation Area, and given the findings of the submitted viability report are that even with the additional two storeys, the scheme will generate a negative land value, it is concluded that the application should be refused.

### **Recommendation**

Site visit (including viewing from vantage points across the valley); Refusal:

1. The combination of the proposed cladding of the building and the additional 2 storeys on the roof will have a detrimental visual impact. The resultant accentuation of the height, bulk and massing of the building will increase the extent to which the building appears out of scale with the prevailing context. The changes to the building will therefore have a significant detrimental impact on the conservation objectives associated with the designated Heritage Asset, by failing to preserve or enhance the character of the Conservation Area. The development is therefore contrary to policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan and to paragraphs 62, 64 131 and 132 of the NPPF.
2. Potential s106 reason if the findings of the viability review are that the development could yield some 106 contributions.

### **Statutory Determination Period**

This application has a 13 week time period which will expire on 19th April 2013.

### **Site Details**

Roebuck House is a large and irregularly shaped split level building at the junction of Warren Road with Abbey Road. It was formally rented by the Council for use as offices until December last year. The building currently has a B1 (business/offices/light industrial) class of use. The property is now empty.

### **Detailed Proposals**

The proposal is to retain and refurbish Roebuck House, a prominent multi-storey office building close to the centre of Torquay. The existing office use will be changed exclusively to residential, with 33 apartments for sale on the open market occupying the building.

An extension at roof level providing 6 additional units would increase the height

of the existing building by a further two floors. A limited number of parking spaces and other plant and service functions would be located in the (lower) ground floor which fronts Abbey Road.

No affordable housing is proposed as part of the development and no off-site contributions have been offered. Furthermore, no sustainable development contributions are to be provided. The applicant has submitted a viability report explaining why there is no scope for any contributions and the Council has instructed an independent review of this report.

The accommodation would comprise:-

- parking for 6 vehicles at lower ground floor level, together with cycle storage, lift, gas meter rooms, refuse storage areas and other plant
- 5 flats on the ground floor comprised of 1x 3 bed, 3 x 2 beds and a 1 bed studio apartment
- 5 flats on the first floor comprised of 1x 3 bed, 3 x 2 beds and a 1 bed studio apartment
- 5 flats on the second floor comprised of 1x 3 bed, 3 x 2 beds and a 1 bed studio apartment
- 4 flats on the third floor comprised of 1 x 3 bed 2 x 2 beds and a 1 bed property
- 4 flats on the fourth floor comprised of 1 x 3 bed 2 x 2 beds and a 1 bed property
- 4 flats on the fifth floor comprised of 1 x 3 bed 2 x 2 beds and a 1 bed property
- 2 beds on a new sixth floor to be created comprised of 2 x 2 beds and 1 single bed property
- 2 beds on a new seventh floor to be created comprised of 2 x 2 beds and 1 single bed property.

The addition of the two extra floors on the roof would take the building up by approximately 6.4 metres higher than the existing flat roof, although there is currently a small amount of plant room in the vicinity of the lift) on the south-western end of the building where the difference would be less.

It is proposed to provide balconies (some recessed) to the third floor on the Warren Road elevation, and to the new 6th and 7th floors on both road frontages.

The building is shown being re-clad with an insulated render system, with new polyester powder coated double glazed windows, some reconstituted stone cladding as a plinth at lower ground floor level, and metal feature grills to the car parking and storage area.

Following negotiations with Officers, the architect has now produced a scheme that shows cladding used to form a tower feature on the prominent south-eastern end (viewed when coming up Abbey Road). This is intended to break up the



otherwise blank façade that was previously shown as replacing the brick and banding of the original façade. The Design Review Panel's latest comments are to be reported at the committee meeting, but it is expected that they will report that the cladding has not successfully broken down the bulk, mass and height of the building.

Access into the parking area is shown off Abbey Road, where space is shown provided (lower ground floor level) for 6 cars, 2 of which are shown as being disabled spaces. The lower ground floor is also shown housing plant, refuse and recycling facilities, and the lift shaft.

### **Summary of consultation responses**

Highways and Strategic Transportation - Observations awaited.

Torbay Development Agency - While it is desirable for this property to remain in some form of employment use the TDA cannot say with any confidence that there is a market for this type of property in that location. In its opinion there is little evidence to support the retention of Roebuck House as office space. They do note that marketing activity surrounding the property by local agents acting on behalf of the landlord has not been strong, and it may well have been overpriced. However, in general terms, the TDA consider that in today's competitive market Roebuck House is 'not fit for purpose' and in relation to competitor locations, both regionally and nationally, is outdated. On this basis The TDA is not objecting to the change of use.

They also point out that whatever the outcome to this application there remains a real concern that due to the lack of demand for flatted accommodation and office use, the building will remain vacant for some considerable time which will have a detrimental impact on the wider area.

English Heritage (Conservation section, based on floor area and height within a conservation area) - Observations awaited.

Building Control – questions were raised at the Design Review Panel hearing in relation to fire safety and compliance with the Building Regulations, the views of the Building Control Officer will be reported for information at the committee meeting.

### **Summary of representations**

Many letters of representation received offering various comments. These representations can be summarised as:-

- It contradicts the neighbourhood plan.
- There is enough accommodation available around here and an office supplying jobs would be much more beneficial to the local community and Torbay's economy.

- Affordable housing would cause further detriment to the area.
- Will lead to overlooking of existing residential properties.
- Providing homes in this area is to be welcomed.
- The new accommodation on the roof would make the building too high.
- Lack of car parking in an already congested area.
- No value in retaining this building.
- The building is an eyesore, detrimental to the Conservation Area, and the new render system will not significantly improve its appearance.
- Residential is preferable.
- The addition of the new storeys would make the building contrary to the Council's 'Tall Buildings Strategy'.
- Would the foundations be strong enough to support an additional 2 storeys.
- It would devalue existing residential properties.
- Roebuck House should be ring fenced for a facility that can bring jobs and community resources in to the area, to help support existing residents and breath life in to a very depressed community.
- More flats risk compounding the social problems we have rather than raising standards.
- The Developer needs to consider that any private flats which are built at Roebuck House will be hard to sell or get a fair price for due to the areas poor reputation.

The representations have been provided in electronic format for Members.

### **Relevant Planning History**

There is no specific or relevant history for this building in the recent past.

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

**Principle and Planning Policy** - The main principle involved with this proposal is whether or not to accept the loss of office accommodation. This building was designed as an office block and appears always to have been used as such. There is a need for modern office space and the jobs they create within Torbay, and more specifically, it has been identified that Torquay town centre would benefit from investment by B1 operators. This stance is supported by policies ES and E6 of the Saved Adopted Torbay Local Plan.

However, there is little evidence of a market demand for this type of accommodation, particularly given its poor state and odd shape. In the period that the Torbay Development Agency has been recording investment enquiries onto their enquiry management system (autumn 2010 to present day) they have received only one enquiry for properties of a similar size to Roebuck House. There here have been two others circa 20,000 sq ft, one from a leading local company, so in terms of evidence to support the requirement of Roebuck as office space the argument is not strong.

It should be noted that all of the enquiries recorded by the TDA were from Call Centre operators. It is also noted that marketing activity surrounding the property by local agents acting on behalf of the landlord has not been strong. The TDA have offered to provide additional sector specific information and meet with agents to devise a more co-ordinated plan. However, this offer was not taken up.

The viability assessment, submitted by the applicant, states that the building has been marketed (as offices to let) for 6 months, from September 2012. There has been no interest shown.

TDA is convinced that in today's competitive market Roebuck House is 'not fit for purpose' and in relation to competitor locations, both regionally and nationally it provides outdated space. The cost of refurbishment and the concerted marketing required is likely to be prohibitive to its continued use as office space for a single occupier.

Torquay town centre requires a balance of good quality office space but in its current condition Roebuck does not fit this bracket.

In addition, the Government's stated intentions are to enable offices to convert to residential use without the need for planning permission in the future. Whilst we do not know what caveats will be placed on such changes of use it is further background that supports the need to be flexible over future uses of office buildings in this difficult market.

In summary, following discussions with the TDA, officers believe the marketing activity for this building has been limited. Officers remain to be convinced that the property has no beneficial 'B' class use, and that further and more targeted marketing could not provide further scope for an employment based future for the building. This is especially the case, given the view that has been reached on the acceptability of the submitted scheme and the opportunity this affords for a re-think on the future of the building.

**Design issues** - There are two main design considerations. Firstly, the extra accommodation on the roof, and secondly, the elevational changes to the facades of the building, which is situated within a conservation area.

On the first of these issues, the building is already 6 storeys high on the Warren Road elevation and 7 storeys high to the Abbey Road elevation. The two new storeys on the roof are shown set back from the existing edge, however, the additional floors are apparent in both immediate and wider views. The most affected views are: i) the view heading up Abbey Road, ii) the view from Warren Road looking towards the Abbey Road junction, iii) the view from across the valley on Castle Road and iv) the view from Alpine Road looking down at the town.

Officer's view is that the addition of 2 extra storeys on the roof would increase the already apparent height, bulk and massing problems with the building in its context. The increase in height would be particularly unfortunate as it would heighten the impact of this discordant building without offering visual benefit to the Conservation Area. The apparent 'weight' of the additional 2 floors also provides a jarring against the grain of the built environment. Notwithstanding attempts to improve the appearance of the whole building through re-cladding, and recent revisions to improve the articulation of the cladding, the additional height sits uncomfortably within the setting, jarring against the prevailing heights of buildings in the area.

The Building Heights Strategy assists in determining applications for tall buildings. The strategy identifies this area as an area of search, but also as a sensitive area to tall building (as it is a Conservation Area). The strategy identifies 3 storeys as the prevailing height in Torquay Town Centre and identifies Roebuck House as a tall building, stating that its existing 'height is exacerbated due to its location on the south side of the street' (page 69).

The document clarifies that the area is sensitive to tall buildings and the list of criteria for tall buildings includes the need to i) preserve and/or enhance the character and/or appearance of the Conservation Area, ii) enhance identified views, iii) be of outstanding architectural design and of sufficient slenderness to form an attractive element in the skyline from all angles, iv) provide a wider public benefit, and v) demonstrate sustainable construction and management (page 61).

The matter has been considered by the Design Review Panel, on two occasions. In October, the Panel identified that the building had a clear anatomy comprising

- Blank party wall to the South East
- Directional structural grid set out perpendicular from the alignment of Warren Road, and
- Abbey Road 'diagonal' elevation - cutting across the structural grid and gently cranking along its length.

The Panel considered that in retaining the existing structure these qualities needed to be better exploited by the layout of the floorplates. It was the Panel's view that the apartments seemed to be squeezed into the existing framework rather than working positively with its grain and character. The Panel applauded the intention to apply external insulation to the building although it was their belief that the current horizontal striations formed by the alternating bands of brickwork and concrete help to successfully articulate the form of the large building, particularly in longer distance views. It was also the view of the Panel that the two new storeys at roof level would be a more difficult architectural challenge. These issues have been the subject of extensive negotiations between officers and the Agent and Architect.

The Panel review in March, for which formal comments are awaited, considered the alternative cladding of the building and the creation of a tower feature on the south-eastern elevation (above the Abbey Road entrance). The Panel view is to be reported at the committee meeting, but it is unlikely that the Panel will revise their view that the additional 2 floors remain a concern and this combined with the proposed re-cladding results in a tall and imposing building.

The revised design of the cladding, which now breaks up the blank wall facing down Abbey Road and inserts a tower feature around the stair/lift core, is considered to be more successful than a blank wall on that side façade. However, the combination of the cladding (which conceals the existing banding through the floor plates of the existing building) and the additional storeys on the roof results in a building that is physically and in appearance, too tall for its Conservation Area setting both in local and wider views.

**Highways and parking** - The provision of only 6 spaces for 33 flats is clearly inadequate and contrary to policy T25 of the Saved Adopted Torbay Local Plan. However, there are several factors that mitigate this. Firstly, its existing use (and previous occupation by the Council) would clearly have generated a requirement for at least as much parking as the current scheme, and indeed there was none provided for the workforce. So the shortfall on parking that would arise with the current proposal is likely to improve upon that situation.

Secondly, it would be reasonable to call this a town centre site where the LPA is usually minded to make exceptions. Thirdly, the building is on a very good bus route (Abbey Road), and this would provide a good sustainable alternative to the use of the private car. Fourthly, there is the Council's multi-storey car park just up the road, and whilst the cost of an annual pass for parking would be very expensive, people are sometimes prepared to pay this in town centre locations. For all these reasons, it is not considered appropriate to raise an objection on the basis of a parking shortfall.

For similar reasons, it is not felt to be appropriate to refuse the proposal on the basis of poor access/egress. Turning out to or in from Abbey Road can be tricky, and it necessitates crossing the public footpath. However, the proposed situation would be little worse than always has been the case, and with only 6 vehicles (max.) attempting to park, this is not a number that is likely to lead to difficulties. On balance therefore, it is not felt appropriate to conclude that the proposal should be refused on the basis of access difficulties as referred to by policy T26 of the Saved Adopted Torbay Local Plan.

**Affordable Housing** - As originally submitted, the applicant considered that the scheme would be appropriate for an off-site contribution towards affordable housing. However, following the submission of the applicant's viability report, it is clear that there is to be no affordable housing contribution.

**Planning Obligation under s106 of the Act** - 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, 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 proposal to provide any new residential dwellings would be liable to a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal.

The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March 2011.

More recently, at Full Council on 6th December 2012, Members agreed to seek contributions towards the South Devon Link Road (SDLR), where it is lawful to do so. Contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size.

Clearly the scheme (of over 15 units) would need to provide for affordable housing. In addition financial contributions will be due for the following items - the South Devon Link Road, municipal waste and recycling, education, lifelong learning, and green space/recreation and loss of employment opportunities. This is likely to result in a total figure in excess of £800,000, although the sustainable transport element will be mitigated at least in part by the trips associated with the existing office use.

A Planning Obligation of this size, in addition to the delivery (preferably on site) of Affordable Housing would clearly need to be proffered by way of a legal agreement.

The applicant has submitted a viability assessment for the proposal which indicates that there would be no profit in the proposal and so there is to be no affordable housing and the development contribution is to be zero. This has been challenged and officers have sought the advice of an independent valuer. This advice will be reported to Development Management Committee.

**Vibrant Town Centres** - The economic benefits for a residential development in line with footfall into the town of potential residents for spend on public transport, retail, leisure, restaurants & cafes is clear. However, an office occupier can provide arguably greater extended benefits. Therefore it is not clear whether office use or residential accommodation would be more beneficial to the economy of Torquay Town Centre.

### **Conclusions**

On the two primary issues - Planning Obligation and appearance - the LPA considers that the scheme fails to meet the adopted standards expected. Clearly a zero rate of financial contribution is not appropriate given all of the adverse factors that need mitigating, however, verification of the viability of the scheme is required before a final view can be reached on this issue.

The concerns about the appearance, height, bulk and massing of the building are supported by the Design Review Panel and it is concluded that the combination of the proposed cladding of the building and the addition of the two extra storeys does not protect or enhance the character of the Conservation Area.

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

01. The combination of the proposed cladding of the building and the additional 2 storeys on the roof will have a detrimental visual impact. The resultant accentuation of the height, bulk and massing of the building will increase the extent to which the building appears out of scale with the prevailing context. The changes to the building will therefore have a significant detrimental impact on the conservation objectives associated with the designated Heritage Asset, by failing to preserve or enhance the character of the Conservation Area. The development is therefore contrary to policies BES, BE1 and BE5 of the saved adopted Torbay Local Plan and to paragraphs 56, 62, 64, 131 and 132 of the NPPF.
02. The proposal makes no provision for Affordable Housing or any Planning Obligation to defray the costs that would arise to the Local Planning Authority as a result of approving this proposal and so the proposal would be contrary to policies H6, CFS, CF6 and CF7 of the Saved Adopted Torbay Local Plan and paragraph 203 of the NPPF.

### **Relevant Policies**

-

# Agenda Item 14

**Application Number**

P/2013/0057

**Site Address**

South Devon Hotel  
10 St Margarets Road  
Torquay  
Devon  
TQ1 4NP

**Case Officer**

Mrs Ruth Robinson

**Ward**

St Marychurch

**Description**

Extend time limit - Refurbishment of original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations - application P/2009/0073/MPA

**Executive Summary/Key Outcomes**

This application seeks to extend the time limit for implementation of the extant scheme for 26 extra care units on this site approved under Application No. P/2009/0073/MPA. This provides an opportunity for the LPA to take into account any material change in planning policy which may have emerged since the original decision was made.

This application involves the conversion of the main villa on the site to provide 8 extra care units and the demolition of a substantial 2 storey flat roofed extension which mars the appearance of this otherwise fine Edwardian Villa. In order to fund this enhancement, a terrace of 18 extra care apartments is to be constructed in the rear garden area.

This application generated much controversy with neighbours due to the size and location of the new terrace and associated traffic impacts particularly on St Margaret's Close, which is a private road and borders the southern boundary of the site.

The report to DMC relating to this application is attached as an appendix and details these concerns. The report concluded that there were insufficient grounds in terms of amenity, traffic and the size of the scheme to warrant refusal of planning permission.

Since this application was approved, national planning guidance has been amended by the adoption of the NPPF. This does not present any fundamental change to national planning policy that would lead to a different decision being reached in this case. In fact, the NPPF now makes explicit a presumption in favour of sustainable development and highlights the role of enabling



development, both of which are factors that would support the approval of this scheme. The Local Plan is still material in terms of the relevant policies to take into account at a local level.

As such, there have been no material changes in policy to justify a change in the decision made. Furthermore, there are no physical changes to the scheme or the existing site and surroundings that would lead to a different decision being made.

### **Recommendation**

Conditional Approval: Subject to;

A. A supplementary S106 Agreement to be drawn up at the applicant's expense and to be completed by the 11th May 2013 to reflect the extension of time hereby approved.

B. Conditions as applied to P/2009/0073 with an additional condition to secure the repair of a boundary wall and retention/replacement of tree screening.

In the absence of a s106 agreement being completed, signed and sealed on or before 11 May 2013, that the application be refused for reasons of the lack of a s106 agreement and therefore lack of compliance with policy CF6 of the Local Plan, paragraph 203 of the NPPF and the adopted SPD 'Planning Contributions and Affordable Housing'.

### **Statutory Determination Period**

This is a major application and needs to be determined within the 13 week period which expires on the 11th May 2013. If the S106 is not signed within this time frame the application should be refused for the reasons set out above.

### **Site Details**

The site comprises a detached Edwardian property prominently located within the St. Marychurch Conservation Area. It is identified as a building of merit in the Conservation Area Appraisal Document. It occupies a corner position at the junction of St. Margaret's Road and St. Margaret's Close and is set in a generous well-landscaped setting. A substantial stone wall borders the site. The building is marred by a large two storey flat roofed front and side extension.

Beyond the rear boundary is the playing fields of the Priory Roman Catholic Junior School. To the north eastern boundary are residential properties and beyond this the Grade II\* buildings of the Roman Catholic Church of Our Lady Help and St. Mary's Dominican Convent. Vehicular access is from St. Margaret's Close which is an un adopted private drive.

The building on the application site has been used as a care home and more recently as a hostel although its lawful use is unclear. It has been vacant for some considerable time.

### **Detailed Proposals**

This application requests the extension of time of a detailed application for the construction of 18 two bed 'extra care' dwellings in the rear garden, demolition of the south west wing of the villa and reinstatement of facades, renovations to north west wing including communal facilities within the basement. Erection of single storey extension to provide for restaurant and kitchen, creation of accommodation in the roof, and change of use of the main villa to provide 8 two bed 'extra care' flats. The creation of a new vehicular access and provision of 11 car parking spaces. Use of whole site for C2 purposes (Extra Care Residential Institution).

### **Summary Of Consultation Responses**

*Highways:* Observations awaited.

*Conservation Officer:* Observations awaited.

### **Summary Of Representations**

Several letters of objection have been received from residents of the adjacent residential area, St Margarets Close, concerned at the scale of the proposal, traffic and congestion, possible failure of the boundary wall and its screening trees exacerbating overlooking to neighbouring properties, parking.

### **Relevant Planning History**

P/2006/0470/MPA: Construction of 11 town houses and 3 flats. Refused 5/6/2006.

P/2007/0122: Alterations and conversions of north west wing, conversion of building to office space, erection of 13 dwellings. Refused 4/5/2007.

P/2007/0121: Demolition works: Approved 21/3/2007.

P/2007/1228/MPA: Construction of 13 dwellings and use of villa as office accommodation. Approved 12/2/2008.

P/2009/0057/MPA: Construction of 18 extra care units in the rear garden area, conversion of the main villa to provide 8 extra care units.

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

This application seeks to extend the time limit for implementation of the currently extant scheme. This gives the LPA the chance to consider whether there has been any material change in circumstances since the original approval was granted, which should be taken into account.

There are a number of key issues in relation to the development of this site. These were identified in the report presented to the DMC meeting of the 26th May 2009 attached as an appendix to this report. Matters in relation to size of the proposal, the level of traffic likely to be generated, parking were all thoroughly

assessed in approving the original consent on the site.

As a brief summary, in terms of the size of the proposal, an existing 2 storey flat roofed extension which currently blights the appearance of this attractive building is to be removed and the original facades reinstated. The new block of building to the rear of the site is not substantially larger than the volume of poor quality building to be removed. It was established through an IVA [Independent Viability Assessment] that this scale of development was necessary to deliver the scheme and to fund the enhancements to the main villa.

In terms of traffic generation and car parking, the existing use of the building is for a care home although its lawful use is most likely a hotel. At the time of reaching a determination on the extant permission, there was an existing consent for office use in the main villa which could have generated more trip movements than the proposed use of the site for extra care accommodation.

The highway network was demonstrated to be adequate for the likely level of use. Similarly in terms of car parking, the number of spaces provided was shown to be adequate and in line with similar uses.

A significant level of objection was based on the fact that St Margarets Close is a private road over which the applicant had rights of access but no obligation to maintain. This was a civil matter between the applicant and his neighbours as confirmed by a subsequent Ombudsman Complaint which concluded that the Council had acted lawfully in dealing with the application.

The relevant policies in reaching a determination on this application were the 'PPGS' [Planning Policy Guidance Notes] and the adopted Torbay Local Plan. The PPGs were superseded by the NPPF in March 2012 although the Local Plan is still material in determining applications. There are no relevant changes to the policy framework which would suggest that the decision is not in compliance with current planning policy. In fact the notion of 'enabling development' which is embodied in this application is now strengthened and more explicit and there is now a presumption in favour of 'sustainable development'. This site is sustainably located with the proposed use being within easy walking distance of the St Marychurch shops and services.

It is possible as part of this review process to consider site specific matters that may have been affected by the passage of time such as ecology, tree growth or deterioration of parts of the structure. One of the resident's representations draws attention to the deterioration of a boundary wall that supports the bank of Leylandii trees, which separate the application site from housing on St Margarets Close. This requires some remedial works if the trees are to be retained in the longer term.

The applicant has been asked to assess this and draw up measures to ensure

the continuation of the screening function of the trees. An additional condition will need to be applied to ensure that these works take place.

**S106/CIL -**

The extant permission was subject to a S106 Agreement that was agreed after much discussion about the viability of the scheme and its capacity to deliver contributions in line with the adopted SPD. An IVA was carried out which confirmed that the scheme was barely viable in the, then current, market and a reduced scale of contribution was agreed. If the market had picked up in the intervening 4 years it may be appropriate to review the viability of the scheme. In view of the depressed market it is not thought necessary to do this and it is recommended that the provisions of the extant agreement be carried over to reflect the 'new' scheme.

**Conclusions**

The scheme was subject to extensive debate in 2009 and there has been no material change in circumstances since that decision was made. In view of this it is recommended that a period of a further 5 years is allowed for implementation of this scheme.

**Relevant Policies**

-

---

Previous Report – P/2009/0073/MPA

**Application Number**

P/2009/0073

**Site Address**

South Devon Hotel  
10 St Margarets Road  
Torquay  
Devon  
TQ1 4NP

**Case Officer**

Mrs Ruth Robinson

**Ward**

St Marychurch

**Description**

Refurbishment of original building and formation of 26 Extra Care Units. Revised scheme to include single storey restaurant area, increased communal facilities at basement level and amendments to elevations

### **Site Details**

Comprises a detached Edwardian property prominently located within the St. Marychurch Conservation Area. It is identified as a building of merit in the Conservation Area Appraisal Document. It occupies a corner position at the junction of St. Margaret's Road and St. Margaret's Close and is set in a generous well-landscaped setting. A substantial stone wall borders the site. The building is marred by a large two storey flat roofed front and side extension. Beyond the rear boundary is the playing fields of the Priory Roman Catholic Junior School. To the north eastern boundary are residential properties and beyond this the Grade II\* buildings of the Roman Catholic Church of Our Lady Help and St. Mary's Dominican Convent. Vehicular access is from St. Margaret's Close which is an unadopted private drive. It has been used as a care home and more recently as a hostel although its lawful use is unclear. It has been vacant for some time.

### **Relevant Planning History**

- P/2006/0470/MPA Construction of 11 town houses and 3 flats. Refused 5/6/2006.
- P/2007/0122 Alterations and conversions of north west wing, conversion of building to office space, erection of 13 dwellings. Refused 4/5/2007.
- P/2007/0121 Demolition works. Approved 21/3/2007.
- P/2007/1228/MRA 13 dwellings and use of villa as office accommodation. Approved 12/2/2008.

A report on this scheme was considered by the Committee on the 16th March 2009. This sought to achieve agreement for the broad principles of a scheme for a care home on the site. It itemised outstanding matters of concern that required further discussion. These were:- 1. Clarification on the use of the building; 2. Level of contribution payable/Section 106 Agreement; 3. Amenity concerns; 4. Traffic impact/use of St. Margaret's Drive.

Subsequently, revised plans were submitted which increased the level of communal facilities within the scheme. This involved use of a majority of the basement of the villa to provide a residents' lounge/staff accommodation/offices and the construction of a single storey extension to provide a restaurant and small kitchen area. Its consideration was deferred at the meeting of the 20th April to allow the proposal to be re-advertised. Further revised plans were submitted on the 21st April 2009 responding to concerns about privacy/overlooking.

### **Relevant Policies**

- PPG15 "Planning and the Historic Environment"  
PPS1 "Delivering Sustainable Development"  
PPS3 "Housing"  
*Torbay Local Plan 1995-2011 -*

HS	Housing strategy
H2	New housing on unidentified sites
H6	Affordable housing on unidentified sites
H9	Layout, design and community aspects
H10	Housing densities
H11	Open space requirements for new housing
ES	Employment and local employment strategy
E5	Employment provision on unidentified sites
CF7	Educational contribution
L6	Urban green spaces
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
BE5	Policy in conservation areas
BE6	Development affecting Listed Buildings
W7	Development and waste recycling facilities
TS	Land use transportation strategy
T1	Development accessibility
T2	Car parking
T26	Access from development onto the highway
T27	Servicing

### **Proposals**

Is a detailed application for the construction of 18 two bed 'extra care' dwellings in the rear garden, demolition of south west wing, renovations to north west wing, including communal facilities within the basement. Erection of single storey extension to provide for restaurant and kitchen, creation of accommodation in roof, and change of use of the main villa to provide 8 two bed 'extra care' flats. Creation of new vehicular access and provision of 11 car parking spaces. Use of whole site for C2 purposes (Extra Care Residential Institution).

### **Consultations**

*Conservation Officer:* No objections.

*Strategy:* on the basis that the flats are substantially self-contained, particularly with their own cooking facilities, they would appear to be C3 dwellings for which there is a requirement for affordable housing. Residential sheltered units will have a different impact on healthcare provision and unless the developer is willing to enter a Section 106 Agreement indicating that clients were formerly Torbay residents or has separate arrangements for healthcare then it would be appropriate to seek a contribution towards healthcare.

*Strategic Transport:* Sustainable transport contribution of £61,048 will apply.

*Highways:* Some changes to the footpaths should be undertaken by introducing dropped kerbs where route not continuous. The visibility onto St.

Margaret's Close is acceptable.

*Arboriculturalist:* No trees of merit on the site.

*NHS Trust:* Comments awaited.

*PCT Torbay:* Comments awaited.

*Affordable Housing Coordinator:* Considers that the offer of £50,000 towards meeting affordable housing needs is inadequate and in view of the character of the operation comprising large self-contained units for sale – the offer should be improved. Considers that a 'clawback' arrangement should be negotiated to achieve a greater level of contribution in the event of a greater sale value being achieved than indicated in the viability study.

### **Representations**

Many letters of objection, reproduced and placed in the Members' Room. Concerns are:-

- overdevelopment
- adverse impact on character and appearance of Conservation Area
- loss of amenity/privacy/overbearing impact
- inadequate levels of on-site car parking
- generation of excessive levels of traffic and parking in St. Margaret's Close and residential streets close to the site
- adverse impact on pedestrian and highway safety, particularly on St. Margaret's Close and on the safety of school children who use St. Margaret's Close, to achieve safe pedestrian access to school
- use of private drive (St. Margaret's Close) for access to the site which is maintained at expense of residents of St. Margaret's Close
- need to have client group of proposed C2 use closely defined
- greater height and impact than previous approval.

Following the re-consultation on the revised scheme, further letters of objection have been received. These repeat concerns about the scale of the use and its adverse impact and requests that thought is given to the impact of decisions that seek to achieve viable scheme in the current economic climate.

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

#### *Background*

There has been an extensive history to development of this site.

Planning permission was granted in February 2008 for the construction of 13 dwellings in the rear garden and use of the main villa as office accommodation. A key benefit of the proposal was the demolition of a large two storey flat roofed extension which was damaging to the visual quality of the villa and the character and appearance of the wider conservation area. It was this benefit that largely

justified the scale of the additional development within the rear garden area.

Whilst 13 units were provided in the rear garden, the size of the dwellings and volume of the additional buildings on site was such that 15 units could have been accommodated, thus triggering an affordable housing contribution under Local Plan Policy H6, relevant circulars and Government guidance.

A viability study was submitted which demonstrated that the costs of demolishing the 2 storey extension were such that it would not have been viable to request an affordable housing contribution. As a consequence only education and sustainable transport contributions were requested via the Section 106 Agreement.

This revised scheme is for the construction of 18 two bed 'extra care' flats in a block within the rear garden and 8 flats in the villa in place of the previously agreed office accommodation. The garden block is of a similar appearance to the block approved under application P/2007/1228, although it has a bigger footprint and mass. It is described as comprising C2 extra care accommodation. In terms of the main villa the scheme includes demolition of the flat roofed extension and modifications to the north west wing, thus providing a similar "conservation benefit" to the extant scheme. It also involves works to the roof to increase floor space which were not included in the previous scheme.

The Committee meeting of the 16th March considered a detailed report on the proposed scheme. It was agreed that there was broad support for a care home on the site and the broad design principles were supported. A further report to the meeting of the 20th April was also deferred to allow re-consultation on revised plans. A key issue raised in this report was the exact nature of the use and consequent need to meet affordable housing requirements. There were also concerns relating to other Section 106 requirements, amenity and traffic impact on St. Margaret's Close.

1. *Clarification on the use of the building*

The original report expressed concerns that the scheme, which comprised large, two-bed self contained flats with very limited communal facilities and which would be for sale on the open market was more accurately described as a C3 sheltered scheme rather than a C2 "extra care" care home. There was a lack of information about the client group, about how the "new concept" in care would operate, how residents, probably frail/elderly would have their basic needs met given there was no communal kitchen/dining facility and only limited opportunities for social interaction. It was considered unlikely that it could be registered as a care home as it would not meet CSCI guidelines.

The applicant has responded to these concerns by increasing the level of communal facilities to include a restaurant, small kitchen, larger lounge area and more extensive staff accommodation. The restaurant is to be provided in a



single storey extension to the building which does increase the footprint of the scheme.

What is being proposed now, with the introduction of some communal facilities, is a hybrid or mixed use that is more care orientated than the initial submission. The question is whether there is sufficient care built into the proposal to qualify it as a C2 use and if it does, whether the nature of the scheme, i.e. all flats for sale, means that it should provide for housing need. The scheme comprises 26 large self-contained flats, available on the open market with an improved, yet still modest range of communal facilities and with hefty management/care charges that will have to be met from future occupants. It is important to identify whether this is sufficient to set it apart from a category II sheltered scheme and whether it does is a question of "fact and degree". The applicant has supplied an appeal decision where the Inspector reached a conclusion that the level of care provided within a scheme was such that it elevated it from a C3 to a C2 use and exempted it from meeting local housing need. It contained a range of communal facilities, providing a "high level of social interaction in a purpose designed environment" and care packages which provided for 15 full time posts. Further in order to comply more fully with the definition of a C2 use, as being accommodation for those in need of care, the occupants were restricted to age 65+.

In this scheme, the range of facilities is less, the age restriction is 55 and the draft Section 106 Agreement states that in terms of the care package "minimum staff assistance on a 24 hour basis". The reason for the debate about classification of use is the desire on the part of the applicant to avoid the affordable housing requirement. On previous "C2" uses such as Sladnor Park and Manor House, an affordable housing contribution was achieved on the basis that a discrete part of the scheme comprised ILUs and it was on these that the calculation was agreed. However, these were based on an entry age of 55 and therefore they may be some justification for agreeing that full compliance with affordable housing requirements could be partly set aside if a C2 use is more fully demonstrated. This would require an age restriction of 65+ or proven disability/infirmity, ample range of communal facilities and worked up care package. The applicant has been asked to investigate whether this is acceptable as an approach.

2. *Level of contribution payable in terms of the SPD and affordable housing and other requirements of Section 106.*

Based on the original scheme, a view was taken that the individual flats being large, self-contained, allowing for independent living, having limited care facilities and being for sale on the open market should meet the SPD in terms of meeting affordable housing requirements. This would mean the provision of 8 units on site, 6 social rented and 2 intermediate. A viability study was submitted which based on current market conditions and working with and existing site value based on the extant consent indicated that the scheme would make a substantial loss. This reflected also the costs of demolishing the large flat roofed extensions

as in the extant scheme.

The applicant has agreed to contribute £50,000 towards affordable housing. This is substantially less than indicated as being appropriate in the SPD. The Affordable Housing Coordinator considers that a clawback or overage agreement needs to be established in the Section 106 Agreement so that a greater contribution towards meeting local housing need can be made in the event that sale prices in excess of that indicated in the viability study are achieved.

A meeting was held to discuss this but has been rejected by the applicant who wishes to explore being more firmly in the C2 camp as explained in the previous section.

It may be difficult to insist on a greater contribution towards affordable housing than is already on the table if a C2 use is more fully demonstrated through more robust entry requirements and enhanced care package.

A contribution is still justified due to the 'hybrid' nature of the use and the possibility of an incremental C3 use arising from spouses/partners remaining in flats after the demise of partners receiving care. It has been requested that this amount be increased to more adequately reflect this particular circumstance.

The 'other' developer contributions were, in the absence of information that confirmed a C2 use, calculated on the basis that the scheme was a C3 use. This required a contribution of £100,468. This the applicant has agreed to. If a view is taken that the level of care to be provided is sufficient to elevate it to a C2 use then these contributions would be reduced. Given that the scheme could 'afford' this level of contribution, it is suggested that the balance be put towards the affordable housing 'pot'. If a C2 use is demonstrated, there will be a need to contribute towards health care costs if the future residents of the scheme are not 'Bay residents'.

### 3. *Amenity concerns*

It is anticipated that these will be satisfactory. The footprint has increased by approximately 2 metres along the majority of the block, increasing to a 6 metre increase in width over a small area within the site. The roof, whilst maintaining the same ridge height as the approved scheme, is a more dominant feature as it has been redesigned in order to accommodate living accommodation. There were more dormer windows and roof lights and a glazed link has been introduced between the major part of the block and what comprised a detached villa form in the approved scheme. There are dormer windows and balconies introduced to the north west elevation in positions where they had been deleted through negotiations in respect of the approved scheme. Whilst revised plans have been received, it is not considered that the amenity concerns in terms of overlooking have been wholly overcome. The revised scheme incorporates a restaurant and kitchen in a single storey extension adjacent to properties on Priory Road. Whilst

no specific objections have been received, advice from the Environmental Health Officer will be sought.

#### 4. *Highway concerns/use of St. Margaret's Drive*

A longstanding area of concern in respect of development on this site has been the impact on St. Margaret's Close which is a private drive, owned by the residents of St. Margaret's Close. The fact that the road is maintained at the expense of the residents is essentially a civil matter between them and the applicant who has rights of access and no liability. An Ombudsman complaint generated by the residents into the decision on the previous approval confirmed this. Notwithstanding this, there have been attempts to forge an agreement between the applicant and the residents of the Close regarding maintenance liabilities and impact on the integrity of the Close. It was also an aspiration to enhance the pedestrian environment of the Close, particularly as it affords access to the adjacent primary school under a Deed of Gift agreed by the residents.

A solution put to the residents was for the top half of the road to be adopted as public highway. This would allow the residents to be free of long term maintenance liabilities, would allow the residents private space to be properly protected from sporadic parking and would allow a good quality approach to be created, including traffic calming and pedestrian enhancements. However, the residents have rejected this suggestion. An alternative strategy has been put forward by the residents who want charges applied to the new dwellings to meet the costs of maintenance.

#### **Economic Prosperity**

If built, and if compliant with the SPD "Planning Contributions and Affordable Housing" it would boost the construction industry, meet the costs of necessary infrastructure and provide new homes including for those in need.

#### **Community Plan**

If built, and if compliant with the SPD, it would achieve as above.

#### **Mayoral Vision**

If built, it would comprise redevelopment and refurbishment of a neglected site within the Conservation Area and thus be compliant with the Mayoral Vision.

**Sustainability** - Makes more efficient use of a brownfield site.

**Crime and Disorder** - No observations received.

**Disability Issues** - Level access achieved.

#### **Conclusions**

At this stage, it is not known if a 'C2' use can be properly demonstrated through

increased age restriction/enhanced care packages but negotiations are ongoing with the applicants. If it can, then, in the circumstances of the viability study and the proposed Section 106 Agreement on offer, it is recommended that the package be regarded as acceptable. This view is likely to be contrary to the advice of the Affordable Housing Coordinator who wishes to achieve an overage clause within the Section 106 Agreement.

**Recommendation:**

Subject to agreement to age restriction of 65+/enhanced care packages, agreement of the Environmental Health Officer in respect of restaurant use, works to St. Margaret's Close, satisfactory resolution of amenity issues in respect of Priory Road and conclusion of a Section 106 Agreement to achieve:

1. Affordable Housing contributions;
2. Other contributions in line with SPD as appropriate;
3. Demolition of extension/remodelling of north west wing;
4. Implementation of schedule of repairs;
5. restriction on occupation, care package, disposal mechanism;
6. Healthcare contribution;

Conditional Approval.

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

01. Prior to the commencement of development, full details at a scale of 1:20 shall be submitted to and agreed in writing by the Local Planning Authority. These details shall show:- a) windows b) doors c) eaves detail/rainwater goods d) dormer windows e) porches f) roof lights

Thereafter the agreed details shall be included in the construction of the scheme hereby approved. Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

02. Prior to the commencement of development, full details at a scale of 1:20 of works to the North West wing which comprise inclusion of a pitched roof, revised fenestration and re-cladding of the main elevation and details at the same scale of works to reinstate the relevant elevations of the main villa following demolition of the South West wing as indicated in Drawing No: 2707-213 rev C shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, these works shall be implemented only in accordance with these details. These works, and the agreed schedule of works to the main villa shall be implemented in full prior to the occupation of any of the units hereby approved.

Reason: To ensure that the detailed appearance of the development is

appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

03. Prior to the commencement of development, a schedule of works in respect of the main villa shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed works shall be implemented in accordance with the schedule prior to occupation of any of the units hereby approved.

Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

04. Samples of materials to be used in the restoration of the main villa, on the external surfaces of the new dwellings and all hard-surfacing materials shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed materials shall be used in the implementation of the scheme.

Reason: To ensure that the detailed appearance of the development is appropriate in the context of its position within the St Marychurch Conservation Area and to accord with Policies BES, BE1 & BE5 of the Torbay Local Plan 1995-2011.

05. Within one month of the date of this decision, full details of advance boundary planting to the north west boundary of the site shall be submitted to and agreed in writing by the Local Planning Authority as indicated and confirmed in Drawing no. RM110.01M rev.D. The approved scheme shall be implemented in the first available planting season following written agreement being received unless otherwise agreed in writing by the Local Planning Authority. Thereafter any trees, shrubs or plants that within a 5 year period from completion of the planting scheme die, are removed or become damaged or diseased shall be replaced in the next available planting season with others of a similar size and species.

Reason: To ensure that the site is landscaped in an appropriate manner to ensure that the character of the area is not harmed and that amenity is preserved and to accord with Policies H9 and BE2 of the Torbay Local Plan 1995-2011.

06. The landscape proposals indicated in Drawing No: RM.110.01.Rev D, shall be implemented in the first available planting season following the completion of the development, or occupation of the dwellings/office whichever is the sooner. Trees no.4. planted adjacent to the access way shall not form part of the scheme and agreed with the applicants agents for visibility reasons. Any trees, shrubs 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 or species.

Reason: To ensure that the site is landscaped in an appropriate manner to ensure that the character of the area is not harmed and that amenity is preserved and to accord with Policies H9 and BE2 of the Torbay Local Plan 1995-2011.

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

Reason: To ensure that the character of the scheme is preserved and amenity not harmed and to accord with Policies H9 and BE5 of the Torbay Local Plan 1995-2011.

08. Full details of the bin stores (sufficient to accommodate adequate storage for waste and recycling material) shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be implemented and made permanently available for use prior to the occupation of the units hereby approved.

Reason: To ensure that there is adequate provision to meet the waste and recycling needs of the occupants of the scheme that it is to an acceptable design and accords with Policies W7, BES, BE1 and BE5 of the Torbay Local Plan 1995-2011.

09. Full details of all fences, walls and boundaries shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development on site. Thereafter the agreed structures shall be implemented prior to the occupation of the dwellings/office.

Reason: To ensure that the final appearance of the scheme is acceptable and to comply with Policies BES, BE1 and BE2 of the Torbay Local Plan 1995-2011.

10. Full details of cycle parking shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the agreed cycle parking shall be implemented and retained permanently on site prior to occupation of the units hereby approved.

Reason: To ensure that there are adequate facilities to encourage more sustainable means of accessing the site and to comply with Policies.

11. Prior to the commencement of development, a scheme to ensure safe pedestrian access across the proposed entrance to the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed measures shall be implemented in full prior to the occupation of any of the accommodation hereby approved.

Reason: To ensure that safe pedestrian access is achieved along the existing footway and to comply with Policy T5 and T2 of the Torbay Local Plan 1995-2011.

12. The residential units hereby approved shall not be occupied until the new access as indicated in Drawing No: 2707-225 has been implemented and the car parking and cycle storage provided. Thereafter these facilities shall be permanently retained in place.

Reason: To ensure that adequate access, car parking and cycle storage is provided and to accord with Policies TS, T2, T25 and T26 of the Torbay Local Plan 1995-2011.

13. The windows to the north east elevation and as shown on Drawing No: 2707-202 Rev D, shall be permanently fixed and opaque glazed prior to occupation of any of the flats within this building. The windows shall remain fixed and opaque glazing shall be permanently retained within these windows unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the residents on Priory Road and to comply with Policies H9 of the Torbay Local Plan 1995-2011.

14. Prior to the works to alter and extend the North West extension to the main building, details of the works to crown lift the tree located in the garden of Villa Pax, Priory Road shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, no works to the tree shall be carried out except in accordance with these details.

Reason: To ensure that only the agreed works are carried out to the tree to facilitate the works to alter this section of the building in the interests of maintaining the visual quality of the tree in the street scene and to accord with Policies L8, L9 and BE5 of the Torbay Local Plan 1995-2011.

15. Prior to the commencement of any works on site, including demolition, a Method Statement shall be submitted to and agreed in writing by the Local Planning Authority indicating how construction traffic is to access and egress the site via the side garden to the property, detailing engineering works that are required for this to take place and the means of reinstating the gardens on completion of development.

Reason: In order that the most appropriate management regime can be adopted during construction in order to minimize the impact on local residents and to accord with Policy H9 of the Torbay Local Plan 1995-2011.

16. Prior to the commencement of development, full details of the reinstatement of the footway including the provision of dropped kerbs across the existing entrance to the South Devon Hotel, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footway shall be reinstated in accordance with these details prior to the occupation of any of the accommodation hereby approved.

Reason: To ensure that safe pedestrian access is achieved along the existing footway and to comply with Policy T5 and T2 of the Torbay Local Plan 1995-2011.

17. Prior to the occupation of any of the residential units hereby approved, a Travel Plan shall be submitted to and agreed in writing by the Local Planning Authority, in respect of access to and from the site by residents, visitors and staff. This shall indicate all measures to be employed to improve accessibility by foot, cycle and public transport. This shall cover a period of 5 years from occupation and be subject to monitoring and biennial reviews which have to be agreed in writing by the Local Planning Authority.

Reason: To promote sustainable means of transportation to and from the site for all users of the site and to accord with the requirements of PPG13 "Transport", PPS1 "Delivering Sustainable Development" and Policies TS and T2 of the Torbay Local Plan 1995-2011.

18. Prior to the occupation of any of the residential units hereby approved, the existing access shall be closed and the relocated access as indicated in Plan No: 2707-225 Rev C shall be constructed in accordance with the approved details. The relocated access cannot be used until the applicant has provided the Lomas Corner Management Company with a Legal Undertaking that he will meet the reasonable legal costs of the residents and the school incurred in varying the Deed of Grant that relates to St. Margaret's Close.

Reason: To ensure that the opportunity is provided for this safe route for school children to be varied in terms of ensuring continuing pedestrian safety and to accord with Policy T2 of the Torbay Local Plan 1995-2011.

### **Informative(s)**

01. This application is accompanied by a Section 106 Legal Agreement.
02. The tactile paving across St Margaret's Close has been deleted from Plan no. 2924-20 rev P7.



03. Town and Country Planning (General Development) 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. a) the scheme has been designed to respect the character and appearance of the conservation area through use of materials, design, massing and scale. It achieves restoration of the main villa on site and is in terms of layout, design and community aspects satisfactory and does not unacceptably impact on local amenity BES, BE1, BE2, BE5, H9. b) Provides accommodation for people in need of care HS, CF15 c) It is acceptable in terms of levels of car parking and access T25, T26. d) The proposal meets the requirements of the SPD "Planning contributions and Affordable Housing" CF6, H6 e) Appropriate measures are in place to deal with impacts of construction.

**Relevant Policies**

-

# Agenda Item 15

## Application Number

P/2013/0167

## Site Address

Princess Gardens  
Off Torbay Road  
Torquay  
Devon  
TQ2 5EQ

## Case Officer

Mrs Ruth Robinson

## Ward

Tormohun

## Description

Installation and operation of a 50M observation wheel with ticket office to front and supporting coffee and crepe unit with decked seating area and secure panelled service and generator compound area to rear on a temporary basis from 24/05/2013 to 5/11/2013

## Executive Summary/Key Outcomes

This application is for a further temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit for a 5 month period from the 24th May 2013 until the 5th November 2013. It is to be sited adjacent to the Pavilion on the Princess Gardens.

Temporary consent for an Observation Wheel was initially granted by the DMC on the 13th August 2012. This was for a period between the 13th August and 7th November 2012. It was removed from site within the prescribed time period and the site was restored as agreed.

The wheel was generally well received and popular with locals and tourists alike. However a number of residents who directly overlook the site raised concerns about loss of privacy and light pollution once the wheel was in place.

It was noted in the original report to Committee that a permanent permission for an Observation Wheel in this location would not be considered acceptable due to the impact on the Pavilion, which is a Grade II listed building, on its setting and on the character of the wider Princess Gardens, which is a Grade II entry on the register of Historic Parks and Gardens. This report however recommended that a short term occupation of the site should be welcomed as it would enhance the tourist attraction of the area and any adverse impacts would be short lived and reversible. This has proven to be the case.

The key issue is whether another period of temporary use is acceptable and whether the amenity concerns of near neighbours to the wheel can be mitigated.

Previous concerns relating to the ability of the site, which is reclaimed land, to bear the weight of this structure have been shown to be unfounded.

The landscaping of the site needs to be reinstated following expiry of the temporary consent.

### **Recommendation**

Site Visit: Approval; subject to a temporary consent until 5th November 2013, submission of Light Impact Assessment, hours of operation, noise restriction and subsequent reinstatement of the affected part of the gardens.

An informative is also recommended to confirm to the applicant that any further applications for temporary consent should be accompanied by supporting information to demonstrate impact on Heritage assets as suggested by English Heritage.

### **Statutory Determination Period**

This application should be determined within an 8 week period as it only qualifies as minor development. The target date for determination is the 13th April.

### **Site Details**

The observation wheel is proposed to be sited on the garden area immediately adjacent to the Pavilion. This is a sensitive location; it is prominent within the Torquay Harbour Conservation Area, is adjacent to a Grade II Listed building and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. The Fountain and War Memorial, which are located close by are also Grade II listed. The area is currently grassed with flower beds following satisfactory reinstatement of the site following the period of occupation in 2012.

### **Detailed Proposals**

This application is for temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit from the 24th May 2013 until the 5th November 2013.

### **Summary Of Consultation Responses**

*English Heritage:* Consider that the introduction of the Wheel would cause substantial harm to heritage significance and if required on a permanent basis would have attracted considerable objection. As the proposal is temporary, the harmful impact should be short term and transitory and a more pragmatic approach seems reasonable. EH do stress that if the proposal is to become more permanent in nature, then a better assessment of its impact on Heritage Significance should be made.

*Environment Agency:* Obs awaited.

*Environmental Health:* Have requested a Light Pollution Impact Assessment be submitted prior to commencement of works in order that the nuisance caused by the illumination of the wheel can be understood and adequately mitigated. Detailed requirements in relation to the operation of the coffee and crepe unit will be included in an informative.

### **Summary Of Representations**

Several letters of objection have been received from near neighbours to the site concerned at the impact of the wheel on their privacy, light and noise nuisance, traffic implications and effect on the listed building, Princess Gardens and the wider conservation area.

These comments have been made available to Members electronically.

### **Relevant Planning History**

P/2012/0690: Temporary consent for Observation Wheel between 13th August and November 2012: Approved 15.08.12.

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

Due to the sensitive location of this proposal, the effect on the listed buildings, the Registered Gardens and the wider conservation area is a key issue. It is also important to examine whether the impact of the scheme on near neighbours in terms of privacy, noise and light nuisance can be mitigated.

A permanent occupation of the site by the wheel would be, in the long term, harmful to the architectural and historical character of the site.

In granting the previous temporary consent, Members agreed with Officer advice that a temporary use of the site by the wheel was welcome as it would enhance the attractiveness of the wider area for tourists and residents alike and the impacts on the heritage features of the site were short term and reversible.

This has proven to be the case, the wheel was popular, attracted tourists, created a dramatic and striking feature within the townscape and once removed the site was quickly and satisfactorily reinstated to its former condition.

A permanent use of the site for this purpose however is still considered unacceptable due to its impact particularly on the Pavilion and its setting. However, until the works to restore the Pavilion begin, it would seem reasonable to allow temporary uses such as this to continue as they do add to the tourist offer and enhance vitality, compensating to some degree for that lost following the closure of the Pavilion. However, an informative should be added to the decision notice to request that any further applications for temporary consent

address the issues raised by English Heritage in terms of demonstrating the impact on heritage assets.

It is important to consider the amenity concerns of neighbours to the site in Delmonte Rock Road and Eden Roc, Warren Road. These relate to light intrusion, noise and loss of privacy.

Residents have requested that Members carry out a site visit to both properties prior to reaching a decision on the matter. Delmonte is the closest to the wheel and is at its closest 85 metres distant. Eden Roc is slightly further away at around 120m. At this distance it is not considered that the loss of privacy is sufficient to warrant refusal of planning permission. The pods are far enough away to prevent clear views into habitable rooms, views tend to be focussed on the wider area and the pods are only stationary for short periods.

Light nuisance is more of an issue and it is proposed to deal with this through a Light Impact Assessment which will assess the level of nuisance and mitigate this through hours restriction and/or the nature and strength of the light emitted.

The structure poses no threats to the structural integrity of the Pavilion or the Gardens, which comprise reclaimed land. This is due to the fact that the load of the structure is to be spread by increasing the size of the load bearing plates. This has all been agreed and verified by the Councils structural engineers. Matting, sleepers and boards will be used to minimise the impact of footfall on the ground around the wheel. The wheel will not operate in winds of over 40 mph.

It is important that the site is reinstated following occupation and this needs to be secured by condition.

### **Conclusions**

Providing the permission is for a temporary period only and the site is properly reinstated following the expiry of the use, then it is considered that permission should be granted for the required period. The impact on neighbours to the site can be mitigated through the control of light pollution and on hours of operation. The impact on privacy is not considered to be sufficient to warrant refusal due to the distances involved and the transitory nature of the overlooking.

### **Relevant Policies**

-