



Friday, 3 October 2014

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 13 October 2014

commencing at **2.00 pm**

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

Members of the Committee

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Brooksbank

Councillor Kingscote

Councillor McPhail

Councillor Pentney

Councillor Stockman

Councillor Tyerman

Working for a healthy, prosperous and happy Bay

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

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DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Election of Chairman/woman**

To elect a Chairman/woman for the remainder of the 2014/15 municipal year.

2. **Apologies for absence**

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

3. **Declarations of Interests**

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

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

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

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

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

4. **Urgent Items**

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

5. **P/2014/0141/MPA - Riviera Bay Holiday Park, Mudstone Lane, Brixham**

(Pages 1 - 29)

Revised plans; Demolition of all existing holiday chalet units (185 total); existing facilities building; staff accommodation building; and two separate buildings used for storage on part of the Riviera Bay Holiday Park. Proposed development of 75 new self-catering holiday lodges; new ancillary management building including shop, cafe/bar and gym room; laying out of 194 car parking spaces to serve the redeveloped Holiday Park; and associated mitigation works including construction of a bat barn. Development of two residential properties (Use Class C3) at the corner of Douglas Avenue and Mudstone Lane, to be accessed from Mudstone Lane. This application is accompanied by an Environmental Statement.

6. **P/2014/0687/MOA - Land To The Rear Of Broadway, Dartmouth Road, Brixham** (Pages 30 - 36)
Development of 10 dwellings and associated infrastructure.
7. **P/2014/0311/PA - St Margaret Clitherow RC Primary School, Polhearne Way, Brixham** (Pages 37 - 45)
Construction of a new teaching block.
8. **P/2014/0817/MR4 - White Rock Primary School, Davies Avenue, Paignton** (Pages 46 - 54)
Construction of a two storey classroom block and dining room extension, together with the provision of a combined cycle/pedestrian path.
9. **P/2014/0827/PA - 5-7 Ilsham Road, Torquay** (Pages 55 - 63)
2 new Dwellings and Change of use from A3 (Restaurants & Cafes) to A1 (Shop) and also from part, C3 (Dwelling house) to A1 (Shop).
10. **P/2014/0634/MPA - 59 Rock Road, Torquay** (Pages 64 - 76)
Demolition of existing bungalow with annexe and erection of 11 no. bespoke apartments; associated parking and amenity spaces.
11. **Spatial Planning Performance Report Quarter 2** (Pages 77 - 80)
To note the quarter 2 performance report for Spatial Planning.
12. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
13. **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, 8 October 2014. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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

Agenda Item 5

Application Number

P/2014/0141

Site Address

Riviera Bay Holiday Park
Mudstone Lane
Brixham
Devon
TQ5 9EJ

Case Officer

Mrs Helen Addison

Ward

Berry Head With Furzeham

Description

Revised plans; Demolition of all existing holiday chalet units (185 total); existing facilities building; staff accommodation building; and two separate buildings used for storage on part of the Riviera Bay Holiday Park. Proposed development of 72 new self-catering holiday lodges; new ancillary management building including shop, cafe/bar and gym room; laying out of 180 car parking spaces to serve the redeveloped Holiday Park; and associated mitigation works including construction of a bat barn. Development of two residential properties (Use Class C3) at the corner of Douglas Avenue and Mudstone Lane, to be accessed from Mudstone Lane. This application is accompanied by an Environmental Statement.

Executive Summary/Key Outcomes

The application is to remove the existing outdated chalets and large facilities building from the holiday park and replace them with 72 chalets, car parking, a smaller facilities building and two detached dwellings. This offers an opportunity for investment in an existing tourist business which would make a positive contribution to the local economy and the principle of redevelopment of the site would be consistent with Policy TU9 in the Torbay Local Plan and "Turning the Tide", which support investment in existing tourist facilities.

The application site is in an environmentally sensitive location being adjacent to the South Hams Special Area of Conservation (SAC), a SSSI, within the AONB and visible in views from the coastal path. The South Hams SAC as been designated for its population of Greater Horseshoe Bats. They constitute some of the rarest/most threatened animals in Europe. Greater Horseshoe Bats commute along the eastern boundary of the site and through the site to reach their foraging areas. The provisions of the 'Conservation of Habitats and Species Regulations (2010) mean that it is essential that Greater Horseshoe Bats can continue to reach their foraging areas, especially in areas close to the maternity roosts where the juvenile bats feed. A Habitat Regulation Assessment and an Appropriate Assessment will need to be carried out to consider the likely

significant effect of the proposed development on the integrity of the SAC. This has not been completed yet because it requires a considerable amount of information to be provided by the applicant and has involved additional survey work being carried out in June and July. Natural England has to be consulted on the assessment and their views taken into account. These will be completed by the time of the committee meeting.

The NPPF seeks to conserve the landscape and scenic beauty in AONBs which are given the highest status of protection by the NPPF. It is necessary for a detailed assessment of the impact of the proposed development to be carried out to justify major development within the AONB. Para 116 requires the benefit to the economy of an investment in tourism to be balanced against the landscape and ecological impact of the development. The proposed development would result in some building on the site being higher than existing development, which would increase their visibility in long distance views across the site from the coastal footpath. A robust landscape scheme is required in order to assimilate the development into the site. The submitted landscape scheme has been revised by the applicant and further consultation responses are awaited from the landscape officer and the AONB Office.

There are a number of other issues such as highways, impact on residential amenity and design that have to be considered in the determination of the application. These are addressed in the report below.

This application was submitted in March this year. Since submission the applicant has worked with officers to provide considerable additional information in support of the proposal and has revised the proposed layout deleting three lodges and reducing the level of car parking on the site. The applicant has worked positively with the Council to produce a form of development that has the potential to be acceptable on the site. As such the proposal represents a development that carefully balances the issues of ecology, landscape, economic impact and scale of development. There are a number of outstanding issues relating to ecology, landscape and ground stability that will need to be addressed at the committee meeting. The applicant is confident that these will be resolved by the time of the meeting and is keen that the application is determined as promptly as possible for commercial operational reasons.

Recommendation

Subject to the receipt of additional information in respect of ecology, landscape and ground stability, conditional approval subject to a S106 agreement. That the S106 agreement be signed within 3 months of the date of this committee or the application be refused planning permission. Final drafting and determination of appropriate conditions be delegated to the Director of Place.

The recommendation above is made on the basis of the Appropriate Assessment

that has been undertaken in accordance with the Habitats and Species Regulations 2010 ('the Habitats Regulations') being signed and agreed with Natural England. If this has not taken place before the committee meeting the above recommendation will need to ensure that planning permission can only be granted if Natural England agrees the Appropriate Assessment. If Natural England objects to the Appropriate Assessment, the matter will be referred back to the Development Management Committee.

Statutory Determination Period

The sixteen week target date for determination of this application was in July. The determination of the application has been delayed due to additional work that was needed to be carried out in respect of the ecological impact of the proposed development. Natural England submitted an objection to the application as originally submitted. In order to address this, further bat surveys have been carried out in June and July to provide a more informed understanding of how greater horseshoe bats use the area around the site. This information was needed to provide sufficient certainty that there would be no negative impacts on the South Hams Special Area of Conservation (SAC). Without this level of certainty the Council would not be able to approve the application.

Site Details

The application site relates to Riviera Bay Holiday Park which is situated adjacent to St Marys Bay. The entire Riviera Bay Holiday Park extends to 6.64 ha in size. The application site area is 4.4 ha. The remainder of the site comprises 11 lodges recently provided (in 2012) at the eastern end of the site and the cliffs facing St Marys Bay. The site has two distinctive parts. The lower part of the site is bounded to the west by Mudstone Lane and includes the existing large facilities building. The facilities building provides a range of communal amenities including a swimming pool, restaurant, bowling alley, amusement arcade and shop. The southern section of the site is at a higher level and is accessed from the end of Mudstone Lane by a steep driveway. Originally these were two separate holiday parks. The lower (northern) part of the holiday park was first developed in the 1950s and the southern part grew from a small 'Homelea' holiday camp that was established in the 1930s before being redeveloped in 1972.

The existing park includes 185 guest chalets, 2 houses, 1 flat and 11 holiday lodges. The lower (northern) part of the holiday park contains the majority of the existing holiday accommodation as well as staff accommodation and the facilities building. The southern part of the holiday park also contains holiday accommodation as well as further staff accommodation and separate storage buildings. The existing holiday chalets comprise pre fabricated units with flat roofs. They are sited on concrete slabs that are arranged on terraces facing St Mary's Bay. Both parts of the site have hard surfaced areas that are used for car

parking and grassed areas. There is largely only pedestrian access to the majority of the chalets in the lower (northern) part of the site. Chalets in the southern part can be accessed by car. Ground levels slope from west to east on both parts of the site.

There are a number of trees and hedges on the site. The majority of the tree cover is situated adjacent to the site boundaries particularly along the boundary with Mudstone lane. The outlook on the site is relatively open as there are a limited number of trees within the site.

Access to the site is from Mudstone Lane. There are two main points of access. To the lower part of the site the entrance is at the northern end close to the junction with Douglas Avenue. The higher southern part of the site is accessed at the end of Mudstone Lane.

The south west coastal path runs along the southern boundary of the site. There is a temporary diversion of the southern part of the coastal path due to cliff falls. As part of the diversion the path extends through the holiday park site. In the Planning Statement it is advised that this footpath is not identified as a Public Right of Way but provides access to the South West Coastal Path. It is not affected by the development proposals.

The surrounding area is predominantly in residential use. To the south is part of the Sharkham development, to the north and west residential properties. Adjacent to the northern boundary are 11 dwelling fronting Douglas Avenue that were granted planning consent in 2012 and were originally part of the holiday park. Wishings Field which has village green status abuts part of the western boundary and to the east is St Mary's Bay. The western boundary to Mudstone Lane has considerable landscaping along it. There is a footpath between Douglas Avenue and the site access. To the south of the entrance Mudstone Lane becomes single carriageway with no footpaths.

In the Torbay Local Plan 1995-2011 the site is shown as being within the AONB, and is designated as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone. Immediately to the south of the site is a SSSI and the Berry Head Special Area of Conservation. The site falls within a greater horseshoe bat sustenance zone and strategic flyway as defined in the South Hams SAC. A National Nature Reserve is designated around Berry Head. It comprises two separate areas: the Berry Head promontory (as far south as Durl Head) and Sharkham Point. The two areas are separated by St Mary's Bay.

Detailed Proposals

The application as originally submitted was for the demolition of the existing chalets and facilities building on the site and redevelopment with 75 self catering holiday lodges, a management building, 194 car parking spaces and two residential properties. Following negotiations with the applicant revised plans

have been submitted. As a result of negotiations in respect of ecology and landscape three of the originally proposed lodges have been removed from the application. The number of car parking spaces has been reduced from 194 to 180. Additional hedge planting is proposed and a plan showing areas of the site where the light levels would be low (below 0.5 lux) have been submitted.

The application is to allow 12 months occupancy of the new lodges. Their use to be restricted to holiday occupancy only. This is the same control that was placed on the 11 lodges approved under application reference P/2011/0470. Virtually all the existing buildings on the site would be demolished. The structures that would be retained include the former Pump House at the eastern boundary. This building was converted to a bat barn as part of mitigation works associated with the 2012 lodge development. The 'Coastal Cottage' (which is used for holiday lets) and staff accommodation in the southern part of the site would also be retained.

Due to the environmentally sensitive location of the site an Environmental Statement (ES) was submitted as part of the application. The purpose of this is to consider the potentially significant environmental effects that are likely to arise as a result of the proposed development. The ES covers the following areas;

- Ecology and Biodiversity
- Landscape and Visual
- Alternatives
- Interactions and cumulative effects

A summary of other non-significant environmental issues is included in the ES which comprise: Ground conditions/stability/land contamination, traffic and transport, tourism and economic factors and water resources and flooding.

It is proposed that the two residential properties would be private and sold on the open market. Both properties would have four bedrooms and two car parking spaces. They would have shared access onto Mudstone Lane with separate driveways. Their design would be fairly modern comprising two storeys with a pitched roof over. The layout would include a first floor terrace area with an external staircase.

The proposed lodges would be 12.2 metres long, 6.2 metres wide and 4.05m high. They would be limited to holiday use only. In the Design and Access statement it is stated that they would be similar to the 11 lodges approved under application reference P/2011/0470MPA. These are more akin to mobile homes rather than natural timber clad lodges. The Planning Statement refers to 'timber profile cladding' on the external walls with a tiled roof. They would have a shallow longitudinal pitched roof over a rectangular plan with the main entrance door in the side. Patio doors at the end of the lodge open onto a raised deck area. The existing 11 lodges are supported above slab level by metal struts and

wheels, although these are largely screened by plinths around the bases of the lodges.

The management building would have a gross internal area of 352 square metres. It would include a shop, café/bar and gym room. It would be intended primarily for use by holiday makers. It would be part two storeys and part single storey. At first floor level there would be a self contained unit of accommodation with an external terrace area. The accommodation would be for staff use.

A landscape scheme has been submitted as part of the application. Due to the proximity of the site to the South Hams Special Area of Conservation, the SSSI and the Berry Head Nature Reserve a draft Construction Environmental Management Plan (CEMP) and Landscape Ecological Management Plan (LEMP) have been submitted.

The applicant advises that the Riviera Bay site is managed in conjunction with the nearby Landscope Holiday Park on Gillard Road. It is predicted that the redevelopment of Riviera Bay will result in the loss of around four jobs, resulting in the proposed development providing approximately 28 jobs.

The Council has carried out a Habitat Regulation Assessment (HRA) and an Appropriate Assessment (AA) on the submitted scheme. This has identified that the application site is used regularly by Greater Horseshoe Bats as a major flyway from the Berry Head SAC roost to wider countryside to the west beyond Brixham. The commuting routes around and across the application site lie within a strategic flyway identified by Natural England and are considered to be crucial for the survival of bats at Berry Head. The following measures are proposed to mitigate the impact of the proposed development;

- Substantial new landscape planting to protect and enhance bat commuting routes.
 - Identification of a defined 'dark area' which would have a maximum light level of 0.5 lux
 - Provision of contingencies should coastal retreat result in the loss of land at the cliff edge to included an Ecological Monitoring and Early Warning Strategy
- The conclusion of the Appropriate Assessment is under discussion with Natural England and has not yet been finalised.

Summary Of Consultation Responses

Brixham Town Council recommends approval subject to the enforcement of holiday use.

Arboricultural Officer the scheme is suitable for approval on arboricultural merit with the exception of the two new residential units along the north western

elevation. Recommends conditions relating to submission of landscaping plan and details of porous surfaces within the Root Protection Areas of trees to be retained.

Natural England consultation response 14.4.14 raises an objection to the application. Advises that the proposals will result in a likely significant effect upon the greater horseshoe bat interest and calcareous grassland associated with the South Hams SAC. Raises concerns about light impacts, mitigation measures, pinch point for Greater Horseshoe Bats, impact on calcareous grassland.

Environment Agency no objections to proposal but suggests an appropriate condition is included in relation to the surface water runoff management strategy. Advise that the Council in its capacity as Coastal Protection Authority makes comment in terms of erosion and slope stability issues and the likely implications of this on the proposed development over its lifetime. Recommends further conditions to assess risks to controlled waters arising from any potential sources of contamination and to address any unsuspected contamination.

Torbay Coast and Countryside Trust due to the close proximity to the Berry Head SAC we are concerned that there could be an associated impact to the limestone grasslands. There is a need for further information about the historic occupancy rates and also whether dogs will be allowed on site. We would want to see the development deliver enhancement to these internationally important grasslands.

RSPB is very concerned that this proposal will result in direct impacts on bats and indirect impacts on habitats of value to cirl buntings and existing calcareous grassland and scrub. The site lies within an important area for cirl buntings, a species of principal importance. There is a risk that, unless amendments are made to widen the availability of coastal habitat for cirl buntings at the application site, redevelopment will sever the narrow coastal strip between Barry Head and Sharkham Point, isolating the cirl buntings at Barry Head. In our view the development should be moved back from the currently very narrow coastal strip so a wider buffer of grassland and scrub is created between the coastal path and the built development. Mitigation measures are required to ensure that construction works and subsequent landscaping and management safeguard habitats.

Senior Transport Planner no objection to this proposal in principle providing visibility at the main access is improved for vehicles exiting. A splay of 2.4 metres by 33 metres is required to provide clear visibility for traffic travelling northwards towards Rea Barn Road. Requests a contribution of £2000 to update current road signing which will help unnecessary traffic movements from entering the AQMA risk area of Bolton Cross.

Landscape Officer- the current proposal is not considered acceptable in

landscape terms and is not supported. The site lies within the South Devon AONB. Great weight should be given to conserving landscape and scenic beauty in the AONB, which has the highest status of protection in relation to landscape and scenic beauty. Advises development on this site would continue to have a significant adverse impact on the character of St Mary's Bay. The proposed lodges are densely spaced, leaving limited space for significant tree planting between the lodges and they do not appear to be set back any further from the coastal scrub than the current buildings. Development on the site would continue to have a significant adverse impact on the landscape character of St Mary's Bay and a significant adverse visual impact on views from the South West Coast Path between Sharkham Point and Berry Head. I consider that the LVIA has underestimated the visual impact of the proposed development and overestimated the benefits of the proposed mitigation in reaching its conclusion. Further coastal scrub and tree planting within and to the site boundaries would help to reduce the visual impact and conserve rural/coastal landscape character. The proposal will do little to conserve or enhance the AONB and the Coastal Preservation Area. It will not deliver the enhancements recommended by the Torbay Landscape Assessment or Brixham Urban Fringe Study.

South Devon AONB Unit- objects to the proposal. The proposal does not give sufficient attention to conserving or enhancing the natural beauty, landscape character or scenic quality of this vulnerable part of the South Devon AONB. The application site encompasses an area of critical environmental value which needs to be restored and enhanced as well as conserved. The need to address the intrusion of development within this site onto the coastal edge remains central to our consideration of this application. The retreating of the developed area further back from the cliff is a critical factor. Considers that the proposal will not lead to a significant alteration to the site's relationship with the coastline. Offers no significant enhancements to landscape quality or management.

Drainage – planning permission can be granted providing a condition is imposed requiring the detailed design for the surface water drainage system to be submitted and approved before work commences on site.

South West Water no objection or comment

Devon and Cornwall Police Architectural Liason Officer no comment to make.

Senior Engineer The application takes into account the recommendations of the 2011 Shoreline Management Plan concerning predicted erosion rates (up to 40m by 2015 in certain sections) and the policy option for this area (no active intervention). Based on this information they have proposed an exclusion zone for any development, which is what I would expect.

SW Coast Path Team Since February 2014 part of the SW coast path has been closed and diverted inland around the development site due to a landslip. Objects to the application on the basis that it does not provide any provision to

enable the coast path to be relocated inland in response to ongoing cliff erosion.

Summary Of Representations

Representations against the application received which raise the following issues;

- The previous planning application has not been adhered to. There are cars and lorries driving down the emergency access road most days. Traffic should not be allowed at the lower end of the site.

- There should be a condition on the demolition of all the existing buildings that they be removed totally and not left on site.

- Any soil added to the existing area should not be allowed to heighten the ground.

- No more trees should be lost in this area as we have already lost many birds and wildlife.

- Roof of lodges should be as low as possible

- No living rooms or bedrooms should face north towards houses in Douglas Avenue

- External lighting should avoid glare to local residents and the surrounding area

- The road between lodges 20 and 21 should be one way only to prevent headlamp glare and light pollution at night

- The new chalets should not spoil the view from houses in Douglas Avenue

- There are shortcomings in the Environmental Statement such as gaps in the analysis and errors in plans and details.

- Lodges 57,59 and 61 are unacceptably near the southern boundary of the site and should be deleted.

- The new lodges are to be 4.05m to apex which will be much higher than the existing units. They will be more intrusive than the existing units

- Proposed landscaping on the southern boundary is exceptionally poor and in parts non-existent.

- More solid boundary treatment than the existing close boarded fence should be provided on the southern boundary

- Land should be made available for a new coastal path to replace the collapsed section bordering the southern end of the holiday park.

Representations received in support of the application that raises the following issues;

- Reduces the number of units on the site and replaces the units with a higher standard of accommodation.

- Reduced traffic and noise in the area

- The large entertainment building and the noise that arises from it late into the evening/night will be removed

- The shop will be a convenience as will be the gym providing membership is open to local residents.

These have been reproduced and sent electronically for Members consideration.

Relevant Planning History

Extensive previous planning history. Most recent applications are;

P/2011/0470 Demolition of 2 buildings used for laundrette, maintenance workshop, housekeeping and entertainment office; demolition of wooden shed used for housekeeping; formation of 11 new holiday lodges with new car parking layout to accommodate up to 216 car parking spaces, relocation of bin store and development of 12 residential properties fronting Douglas Avenue approved 3.2.12

P/2006/0054 Siting of 23 caravans for holiday use. Refused 21.2.06 and subsequent appeal dismissed by letter dated

P/2005/1689 Variation of parking provision (ref app P/1999/1177) approved 11.11.05

P/2003/2128 Illuminated flat board sign

P/1999/1177 Construction of 14 new chalets, 10 flats over existing chalets, extension to house swimming pool (indoor) and improved access and additional parking, approved 2.3.00

Key Issues/Material Considerations

Principle and Planning Policy -

The main issues to be considered in respect of this application are;

1. the principle of replacing the holiday units on the site and the construction of two permanent residential dwellings,
2. effect on ecology and biodiversity,
3. landscape and visual impact,
4. highways
5. design and external appearance,
6. economy
7. ground stability
8. impact on residential amenity
9. the coastal footpath
10. S106 obligations

1. Principle of development -

This application would result in a significant investment in an existing tourism facility. The existing outdated chalets and large facilities building would be removed and replaced with modern detached holiday lodges and a new smaller facilities building.

Policies TUS, TU3 and TU9 in the Torbay Local Plan 1995-2011 support proposals for the improvement of tourist facilities providing a number of criteria are met such as there would be no harm to the environment. The explanation to Policy TU3 notes that the improvement of tourist facilities is important to recognising Torbay's position as a premier resort. Policy TU9 specifically relates to refurbishment of holiday parks. This Policy supports refurbishment and upgrading of facilities. It supports improvements to the on-site environment, reducing high densities and improvement to on site facilities. It is recognised that many holiday parks are in environmentally sensitive areas and this type of development can have a significant visual and landscape impact. In the explanation to the Policy it is stated "the Council will seek to secure improvements to the appearance and layout of facilities and improve standards of landscaping and nature conservation". In addition "the Council would not wish to see the introduction of further environmental conflicts, particularly in sensitive designated landscape protection areas".

Policy TO1 in the new Local Plan "A landscape for success" is also relevant to the determination of this application as no objections have been received to this Policy. It states "the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services".

In the 2010-2015 Strategy "Turning the Tide for Tourism in Torbay" the visitor trends noted from 2001 and 2007 include an overall increase in demand for self catering accommodation and consistent and growing demand for holiday park accommodation.

The NPPF makes little mention of tourism other than supporting sustainable rural

tourism at para. 28. Economic growth and investment in business is supported by paras 18 to 22 in the NPPF.

The proposed development would result in a notable improvement to the standard of accommodation on the site. Discussions have taken place with the applicant about the tenure of the lodges on the site. The applicant has advised that the intention is to sell all of the lodges on the site, and none would be operated on a fleet basis. This approach raises the issue of the level of occupancy as there is a risk that the lodges could be used as second homes and only occupied for a few weeks a year. Clearly a high occupancy rate would result in a greater tourism contribution to the economy of the area. In order to address this issue the applicant has been requested to ensure that there are facilities on site to enable owners to let their lodges for holiday use. A condition is suggested to ensure this provision is kept permanently available. The applicant has agreed to provide this facility on the site.

The application includes development of two dwelling houses that would front Mudstone Lane. Under application reference P/2011/0470 planning permission was granted for 12 new dwellings fronting Douglas Avenue that are adjacent to the proposed site for the two additional dwellings. The principle of constructing new dwellings on the site would be consistent with the character of the surrounding area which is predominantly residential. Policy H2 in the Torbay Local Plan 1995-2011 sets out a number of criteria for assessing new residential development. This includes the need to avoid physical and environmental constraints and promotion of good design and a high quality 'green' residential environment.

In summary, an investment in the improvement of existing holiday facilities is supported by the Torbay Local Plan 1995-2011 and the NPPF. Such investment and improvement provides valuable benefits to the local economy, and to the tourism sector specifically. However this has to be balanced against the impact of development on the environment and landscape. These issues will be addressed in detail below.

2. Impact on Ecology and Biodiversity -

The application site is located in an environmentally sensitive site. It is located within the AONB. It is also subject to local landscape designations as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone in the Torbay Local Plan 1995-2011. Immediately to the south of the site is a SSSI and the Berry Head Special Area of Conservation. A National Nature Reserve is designated at Berry Head which to the north of the site.

Policies in both the NPPF and the Torbay Local Plan 1995-2011 recognise the importance of these designations, particularly the AONB, SSSI and SAC designations. In reaching a decision on the application significant weight should be given to the impact of the proposal on the ecology and biodiversity. Para.

115 in the NPPF advises that;

“great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in these areas”.

Para. 116 in the NPPF advises that “Planning permission should be refused for major developments in these designated areas except in exceptional circumstances where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- The need for the development
- The cost of, and scope for, developing elsewhere outside the designated area
- Any detrimental effect on the environment.

Para. 118 advises that proposed development likely to have an adverse effect on an SSSI should not normally be permitted.

In para. 119 is it advised that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment is being considered. This is the case for this application as there is an appropriate assessment.

Para. 125 advises that planning decisions should “limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

Policy L1 in the Torbay Local Plan 1995-2011 accords priority to the conservation and enhancement of the natural beauty of the AONB. The local designations of AGLV, Coastal Preservation Area, Countryside Zone and Coastal Protection Zone are subject to Policies L2, L3, L4 and EP12 which seek to protect the natural environment and unspoilt character of these areas.

Policies NCS, NC1, NC2, NC3 and NC5 in the Torbay Local Plan 1995-2011 seek to preserve or enhance biodiversity and wildlife. Policy NC1 is relevant and makes clear that development that would harm the integrity of the SAC will not be permitted.

The submitted Environmental Statement (ES) addresses ecology issues in detail. The Ecology Impact Assessment that forms part of the ES is based on a range of habitat and faunal surveys undertaken throughout 2009, 2010 and 2013. These surveys concluded that the habitat present on the site to be of ‘negligible ecological value’. However the site has the potential to be used by a variety of protected species. The most important of these is the Greater Horseshoe Bat, which is significant in view of the Greater Horseshoe bat roost at the Berry Head

SAC. Previous bat surveys confirmed that whilst Greater Horseshoe bats forage within suitable habitat on Berry Head and within 2km of their known roost sites on the headland they regularly disperse up to 14km to the south west to forage in the wider countryside.

This site forms one of the key areas within a narrow bat dispersal corridor. Whilst the site is not considered to have the potential to be highly suitable foraging habitat itself, the routes through and adjacent to the holiday park are important to the function of the roost and therefore of international ecological value. The site falls within a 'pinch point' and is sensitive to potential impacts upon the greater horseshoe bat interest. The greater horseshoe bat commuting habitat is highly constrained at this pinch point due to the proximity of the holiday park to the coastal strip with the narrow coastal path appearing to offer the key link between the roost and the surrounding countryside.

Natural England's initial consultation response raised an objection to the proposed development on the grounds that the proposal would result in likely significant effects upon the greater horseshoe bat interest and calcareous grassland associated with the South Hams SAC. The key issues identified related to;

- a) concern about light impacts that could affect the use of the area by the greater horseshoe bats which tend to avoid artificially lit environments.
- b) Whether the proposed mitigation works would provide sufficient certainty that there would be no short term detrimental impacts.
- c) Insufficient information about planting proposals and the implications of opening up pedestrian routes to the coast
- d) Concern about mitigation proposals in relation to the pinch point of the holiday park being situated in close proximity to the coastal path that is used by greater horseshoe bats for commuting.
- e) Seeks clarification of existing and proposed occupancy rates to inform an assessment of the effect of the development on the calcareous grassland at Berry Head.
- f) Requests submission of further information to assess the impact of the proposed development on the landscape.

Following negotiations with the Council's Ecological consultant and Natural England further bat survey work has been carried out in July 2014 to establish use by greater horseshoe bats, of the vegetated cliff slopes below the coastal path directly east of the southern half of the application site. This work confirmed that greater horseshoe bats are not confined to just the narrow corridor along the

coastal footpath, but instead also fly along the cliff slopes where they find shelter within the scrub and trees. This additional information is important to provide evidence that with the proposed development of the site would still provide sufficient space and conditions for greater horseshoe bats to fly south along the narrow coastal strip adjacent to the boundary of the site.

This additional survey work has informed the submission of revised plans that included the provision of additional planting around the eastern boundary of the site.

Natural England has responded to the first draft of the HRA and AA. They have asked for clarification on a number of issues, and advised that until these issues are resolved that NE will not be in a position to agree with the conclusions of the Appropriate Assessment.

In their consultation response the RSPB advised they are very concerned that this proposal will result in direct impacts on bats and indirect impacts on habitats of value to cirl buntings and existing calcareous grassland and scrub. They advise that there are records of cirl bunting breeding territories to the south and north east of the application site. There is a risk that, unless amendments are made to widen the availability of coastal habitat for cirl buntings at the application site, redevelopment will result in severing the link between territories, isolating the cirl buntings at Berry Head.

Similarly the RSPB have responded to the first draft of the HRA and AA. They have also raised a number of concerns in response to the revised plans. These include insufficient information in the draft LEMP and CEMP, concern about annual cutting of new hedgerows and tree planting which will reduce their value as wildlife habitats (a minimum period of two years is recommended and not all vegetation cut at once), and lack of information about provision of a 5 metre vegetated buffer between the lodges and the cliff edge in the event of coastal erosion.

As well as bat surveys a number of other surveys were carried out: breeding bird surveys, reptile surveys and badger surveys. The breeding bird survey indicated that 24 species of bird were breeding within the survey area. No cirl buntings were recorded within the site or its immediate surrounds. The bat activity surveys identified at least eleven species of bat within the site. Evidence of bat use was found in two buildings that will be demolished, a derelict barn adjacent to the southern boundary of the site and a chalet building within the southern half of the site. The badger survey identified a badger sett comprising two active holes and at least 4 disused holes located within an area of scrub between the eastern boundary of the site and the coastal path. In the reptile survey undertaken in 2010 a 'good' population of slow worms was recorded.

The Environmental statement confirms that controls such as timing of site

clearance and stripping and the methods employed to undertake these works that will be required to minimise wildlife mortality. Measures such as setting up root protection zones to protect hedges and trees which will be retained, controls over temporary storage areas, demolition and construction only occurring in daylight hours, dampening dust and workers will be inducted regarding the sensitive nature of adjoining designated sites.

Measures are proposed to provide ecological mitigation and enhancement on the site. These include new dedicated bat roosting facilities to compensate for roost loss and planting two large broadleaf trees either side of the internal access road to improve two bat commuting routes which cross through the centre of the site.

In the Environmental Statement it is concluded that the proposal would result in a negative residual impact on herring gulls due to the loss of nesting habitat. The ES considers that given the adaptability of the bird it is anticipated that the breeding pairs using the site will find alternative nesting habitat and so the impact will not be significant in the long term.

Lighting on the application site is a significant issue because Greater Horseshoe bats are a very light sensitive species and avoid flying in high light levels wherever possible. The redevelopment proposals have the potential to result in increased light levels and potentially lead to light spill onto the known regularly used commuting routes. In support of the application an assessment of lighting levels on the site pre and post development has been submitted. This concludes that a number of receptors are predicted to receive an adverse significance of effect. However, the majority are expected to receive a no adverse and beneficial significance of effect due to reduced or equal resultant lighting levels when compared to the existing condition. It should be noted that a detailed lighting design has not been submitted. For the application 'typical' lighting parameters have been developed.

Following negotiations the applicant has submitted a plan showing the areas of the site where dark corridors will be maintained with a light level of no more than 0.5 lux.

The Environmental Statement also addresses the issue of habitat change as a result of visitor pressure. It is recognised that increased visitors to the South Hams SAC could lead to the disturbance of animals and the trampling of ground flora, in particular the calcareous grassland for which the SAC is designated for. The applicant advises that there are currently 1002 bed spaces at the site which include 932 chalet spaces, 66 spaces resulting from the lodges constructed as part of the Phase 1 redevelopment of the site and 26 spaces associated with staff accommodation. Post redevelopment there would be 432 spaces in the new lodges, 66 spaces from the lodges in phase 1, 26 spaces for staff accommodation and 10 spaces from the construction of two private houses, making a total of 524.

From the evidence submitted by the applicant it appears unlikely that visitor numbers and consequently visitor pressure will increase at Berry Head as a result of the proposed development.

As the application site is in close proximity to a European designated site it has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended. As the competent authority the Council should have regard for any potential impacts that a plan or a project may have. This assessment is carried out through the HRA and AA process. The AA needs to reach the conclusion that the proposed development will not result in any adverse residual effect on the integrity of the SAC. If insufficient information has been submitted to reach this decision the application should not be approved as it would be in breach of the above legislation.

At the current time both Natural England and the RSPB have raised concern about the proposed development. If these cannot be satisfactorily addressed planning permission should not be granted.

3. Landscape and Visual Impact -

The application site is within the AONB, and is designated as Countryside Zone, Coastal Preservation Area and Coastal Protection Zone in the Torbay Local Plan 1995-2011. Para. 115 in the NPPF advises that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation to landscape and scenic beauty. Para. 116 advises that planning permission should be “refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.

Policy L1 in the Torbay Local Plan 1995-2011 states that conservation and enhancement of AONBs will be given priority over other considerations. Policy L3 relates to Coastal Preservation Areas and limits development to those required for the economic and social well being of the locality that cannot reasonably be accommodated elsewhere and permits improvement of facilities on chalet sites which would make little impact on the character of the protected area. Policy L4 relates to the Countryside Zone permits the development of tourist facilities providing the rural character, and wildlife habitats are not adversely affected and mitigation measures are carried out to minimise any harm to the environment.

Both the Torbay Landscape Character Assessment and the Brixham Urban Fringe Landscape Study are also relevant to the determination of the application. In the Torbay Landscape Character Assessment the site falls within the ‘Open Coastal Plateau Character Type’. The holiday camps within this area are considered to be highly prominent and to detract from the character of the area and sense of place. The management strategy is to enhance, specifically with

new and reinforced screening. The Brixham Urban Fringe Landscape Study identifies Riviera Bay as being visually significant. It advises that any redevelopment proposals should include drawing back from the cliffs and opening up the coastal corridor. It is stated that the coastal corridor should be widened to a minimum of 50 metres.

In support of the application a Landscape and Visual Impact Assessment has been submitted by the applicant. This includes an assessment of the proposed development from 14 different viewpoints. The report assesses the potential impacts of the development and the mitigation proposed. In the report it is advised comparing the sensitivity of the receptors to the magnitude of predicted change allowed the significance of effects to be assessed. The conclusion reached is that the overall significance of landscape effects during construction are assessed as moderate and adverse (not significant) and once the proposed development is complete assessed as moderate and beneficial (not significant). The overall significance and nature of visual impacts will be moderated and adverse during construction and minor/moderated and beneficial once the proposed development is complete.

A landscape report on the submitted scheme has been prepared for the Council. This reaches an alternative conclusion to the submitted LVIA. The Council's report assesses the existing development as having a substantial (significant) adverse impact on the landscape character. It is advised that the proposed development would slightly reduce the adverse impacts through proposed mitigation however it is concluded that development on the site would continue to have a significant adverse visual impact on views from the South West Coast Path. The Landscape Officer considers that the submitted LVIA has underestimated the visual impact of the proposed development and overestimated the benefits of the proposed mitigation in reaching its conclusion. She concludes that the proposal is not considered acceptable in landscape terms and is not supported.

The Landscape Officer has reviewed the revised plans and advises that she does not feel able to remove the landscape objection at this stage. She notes that the proposal does not provide the recommended buffer to the cliffs/coast path referred to in the Urban Fringe Study and the section show that many of the proposed chalets will be at a higher level and more prominent than the existing chalets. She recommends that more trees should be planted along the frontage along with the coastal hedgerow, between the main car park and houses on Douglas Avenue and along the edge of the existing coastal scrub. In her opinion to achieve a substantial and effective landscape scheme more lodges should be removed from the scheme, but in the absence of this there are still opportunities to increase planting and to reduce the height and prominence of the lodges.

The applicant has been requested to respond to these comments and further revised plans are awaited.

The AONB officer objects to the proposal. He is of the opinion that as originally submitted the proposal does not give sufficient attention to conserving or enhancing the natural beauty, landscape character or scenic quality of this vulnerable part of the South Devon AONB. He considers that “the proposed development remains large scale, still encroaches to an unacceptable degree upon the South West Coast path and does not significantly improve the experience of the coastal corridor of users of the coast path. Critically the proposed development fails to provide a buffer as set out within the Brixham Urban Fringe Landscape Study.... The application fails to improve on the current situation, impact adversely on landscape character and fails to replace the boundary .. with a more sympathetic alternative”. An updated consultation response to the revised plan is awaited.

An Arboricultural impact assessment has been submitted in support of the application. This identifies a number of trees that will be felled on the site. The majority of these trees are classified as ‘U’ which are recommended to be removed. Three trees categorised as ‘B’ (higher quality) and three categorised as ‘C’ (low quality) are proposed to be felled. A plan showing the location of a protective barrier required to form a construction exclusion zone (CEZ) has been submitted. Detailed landscape plans showing areas of new planting on the site have been submitted. The Arboricultural officer has advised that the scheme is acceptable on Arboricultural merit with the exception of the north west corner of the site. This is considered in the section below.

4. Highways and access to the site -

In support of the application a Transport Statement and Travel Plan have been submitted. It is proposed to retain the existing accesses to the north and south parts of the site with no alterations to either access.

In the Transport Assessment data from the TRICS database is used to calculate the existing trip generation rates and the proposed trip generation rates. In addition an analysis of existing and proposed bed spaces is also included. It is concluded that due to the reduction in the number of units of accommodation proposed on the site the trip generation rates will be decreased. It is noted that these calculations have not taken into account previous and proposed occupancy levels, which have been considered as part of the assessment of the development on the environment. Due to the reduction in capacity on the site it is unlikely that a calculation including occupancy rates would result in a notable increase in trips to and from the site and therefore this analysis has not been requested from the applicant.

In the Travel Plan it is identified that there is footpath access to the site along Mudstone Lane. There are bus stops outside the site. It is proposed that secure

covered cycle parking will be provided on site for staff and visitors. All lodges will have a dedicated space to store at least one bicycle. A number of measures are proposed in the Travel Plan to encourage sustainable methods of travel for staff and visitors.

Strategic Transportation have advised that they have no objection in principle to the proposed development providing visibility at the main access is improved. A visibility splay of 2.4m by 33 metres is requested to provide clear visibility. In addition a contribution of £2000 is requested to update current road signing which will help unnecessary traffic movements from entering the AQMA risk area of Bolton Cross. The applicant has agreed to make this contribution and this is addressed in the S106 agreement.

The applicant responded to the request for an improvement to the visibility splay in the submission of a technical note that sets out in detail the reasons why the applicant does not intend to improve the visibility at the access to the site. This is due in part to there being no accidents recorded on Mudstone Lane between 1.12.08 and 30.11.13 and because the proposed development would deliver a reduction in the use of the junction. It is the applicant's opinion that the current arrangement also contributes to keeping vehicle speeds below the 30 mph limit. An increase in the visibility splay would be likely to lead to increases in vehicle speeds and therefore greater safety issues for southbound drivers and pedestrians than currently. In addition any works to implement an increased visibility splay would also require the removal of the existing devon bank and quite possibly a number of trees.

Strategic Transportation are of the opinion that it is desirable for the access should be improved. They consider that a well designed access is important for the safety and convenience of all road users. Whilst noting there will be fewer units on the site, the fact remains it is a substandard access and does not promote safety. However in response to the applicant's case they have concluded on the basis that the proposed development would reduce trip numbers, even though the access is sub- standard, at appeal, the Council would be hard pressed to prove that as a result of the proposed development the situation would be any worse than it currently is. In this case it is considered that there would be insufficient grounds to refuse the application because of the substandard access.

5. Design and external appearance -

All of the 72 holiday lodges would have an identical appearance and size. They would be single storey and would be finished with timber profile cladding on the walls and have a tiled roof. The roof would have a shallow pitch. The lodges would be identical to those approved under application reference P/2011/0470 that are now on site. The lodges would be a pre- manufactured which means they would technically be a caravan, and would be subject to site licensing controls. They would sit above slab level in the same way as a caravan does.

Each lodge would have an external deck area.

The use of a dark brown cladding and dark coloured roof material would be visually recessive when viewed from a distance. In comparison with the existing chalets on the site which have flat roofs the actual height of the proposed lodges would be higher than the existing chalets. In considering the existing development on the site in comparison with proposed development there are a number of points to note. The existing chalets have an outdated appearance and have no design merit. They don't make a positive contribution to the appearance and character of the area. The proposed lodges would have a modern appearance. A significant change between the existing and proposed development is the form/layout of buildings on the site. The existing chalets comprise terraces of development following the contours of the site. The proposed lodges would be detached and would have space between each lodge which would reduce the visual impact of the development. The spaces do provide the opportunity for landscaping to be provided between the lodges which would reduce their visual impact when viewed from the coastal path. It should be noted that the submitted sections to show that in a number of cases the lodges would be higher than the existing development on the site which would add to their prominence when viewed from the coastal path.

The proposal includes the construction of two detached dwellings in the north west corner of the site at the junction of Douglas Avenue and Mudstone Lane. The proposed dwellings would be two storeys in height. Their design and external appearance would differ from those approved under application reference P/2011/0470 which have a more contemporary appearance and largely have first floor accommodation within the roof space. There are a variety of forms of residential development in the area. The proposed dwellings would not be inconsistent with the established character and would constitute an appropriate form of development in this location in design terms. The choice of materials would be important to assimilate the development into the street scene. A condition can be imposed to ensure that the materials would be appropriate for the location.

On this part of the site there is currently a large single storey building in use as staff accommodation. It is screened by existing mature trees along the site boundary, but remains visible in the street scene. The demolition of this building would be acceptable as it makes no positive contribution to the appearance and character of the area.

The Arboricultural Officer has raised concerns about the impact of the two new dwellings on existing mature trees on the north and west boundaries of the site. He is concerned that removal of trees to form the shared driveway will open up the group, divide its efficacy as a visual amenity and allow new wind loadings to potentially damage previously sheltered adjacent trees. He has also raised concerns that the trees will overshadow the proposed dwellings leading to a

future pressure to fell. The Arboricultural Officer has advised that if the proposed dwellings were re-sited to the south and dwelling H1 moved further east this would overcome his objection. Revised plans showing these revisions are awaited.

The proposal also includes replacement of the existing facilities building on the site. The existing facilities building is large in size. It is predominantly single storey and part two storey with a flat roof. It is visible from Mudstone Lane. The proposed replacement facilities building would be sited in a similar location to the existing building, adjacent to the northern entrance to the site. The proposed building would be part single storey and part two storey, with a flat roof. It would have a smaller footprint than the existing building. The external detailing would be relatively straightforward and functional. The building would open onto a terrace area on the south east side. Again the materials would be important to the appearance of the building and this detail can be addressed by means of a condition. The first floor of the facilities building would provide a self contained one bedroom flat with a first floor terrace area.

6.Economy -

The proposal represents an investment in an existing outdated holiday park. The stock of accommodation on the site would be notably updated and a new facilities building provided to support the tourist use of the site. This investment in an existing tourist facility is welcomed and would be beneficial to the local economy. In the Torbay Local Plan 1995-2011 in the explanation to Policy TUS it is stated that "tourism is the cornerstone of the economy of Torbay". In addition "sustaining the tourism industry is a main strand in Torbay's Economic Development Strategy".

Policy TU9 in the Torbay Local Plan 1995-2011 supports upgrading of facilities in a holiday park subject to criteria relating to impact on landscape, nature conservation, highways and residential amenity.

Policy TO1 in the new Local Plan is also relevant to the determination of this application as no objections have been received to this Policy. It states "the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services".

The applicant has submitted a Tourism and Economic statement in support of the application. In this statement the applicant makes a comprehensive case for redevelopment of the site. It is advised that under investment by predecessor owners has resulted in a significant deterioration in the fabric of existing holiday chalet buildings. The chalets were constructed in the 1970s to a relatively low specification. In addition although most of the central facilities are adequate, they too require updating in to meet the needs of a changing tourism market. Since acquisition Park Holidays have invested hundreds of thousands of pounds in annual maintenance and also committed capital sums to double glaze the units

and improve fittings. Discounting and a relatively low tariff has allowed the business to continue to operate. The applicants advise that maintaining the status quo in this manner is not considered to be a sustainable business format. In 2012 11 holiday lodges were permitted on the site and proved successful. It is now proposed to redevelop the whole park with holiday lodges. The applicant advises that in order to make the proposition financially viable sale of the lodges will be required as means of recouping the investment within a realistic timeframe. It is advised that sub letting arrangements will be encouraged by the park operator that will mean the lodges would be optimised for holiday purposes. The applicant suggests that Riviera Bay would become one of if not the largest all-lodge development in Devon.

The applicants have confirmed that of the 11 lodges approved and sited during 2013 in January 2014 only 3 remained to be sold. Of the 8 in use, 5 are subject to subletting activity; two via Park Holidays and three by private concerns.

The proposed investment and upgrading of the accommodation on the site would improve the stock of holiday units in Brixham in accordance with "Turning the Tide". This site is well located for a tourism use as it has good sea views over St Mary's Bay. The retention of the site for a holiday use would be beneficial to Brixham in terms of employment provided on the site and secondary servicing that would occur. The applicant advises that there are currently 32 full time and part time posts on the site and as a result of the proposal there would be 28 full and part time posts plus contract cleaners. The proposed development would result in a net reduction of 4 jobs. In accordance with the SPD "Planning contributions and affordable housing" a contribution has been requested to offset the impact of this reduction in employment.

In order to facilitate sub letting of the lodges to encourage maximum occupancy it has been agreed with the applicant they will provide facilities for owners to sublet. Details of how this would work and a control to ensure that it would be permanently provided can be addressed by condition.

7. Ground stability -

The applicant has submitted cliff stability and ground stability reports in support of the application. The initial cliff stability report identifies that in terms of the geology of the site it can be divided into two conceptual zones. The northern zone consists of limestone cliffs and the southern zone comprises a mudstone slope. The northern limestone cliffs have historically been relatively stable however between 1937 and 1953, there appears to have been a significant rock fall onto the beach and the cliff top regressed 5-10m. Since this date, the cliff line in the northern section appears relatively unchanged.

The historical maps show significant and regular topographic changes in the southern section of the site. Over the period 1864-1981 the crest of the slope

regressed an average of 20m and a maximum of 40m in localised areas. This represents an average rate of regression of 0.2m/yr and a maximum rate of 0.3m/yr. The toe of the slope regressed an average of 25m and a maximum of 60m. This regression appears to have occurred in a series of local events, causing retreat over relatively localised areas of the slope crest. It is noted that the landslide is active and that there is potential for further movement. This is indeed the case as the Cliff Stability Report was produced in 2011 and further landslides occurred in the winter of 2013/14 which have resulted in the coastal path adjacent to the site being closed and a diversion being put in place.

In addition, three gullies have formed in the southern section. One of these is shown on the maps from 1953. A further two are likely to have formed between 2000 and 2007. A phase II report divides the geotechnical areas into a northern zone, central zone and southern zone. It is predicted that the 100 year regression of the cliff for the northern zone will be 10 metres, 45 metres for the central zone and 40 metres for the southern zone.

In the Shoreline Management Plan (Draft Final) Durlston Head to Rame Head 2010 the management policy for the area between Berry Head and Sharkham Point is one of 'No Active Intervention'. It is evident that there will be cliff erosion in the future that will affect the proposed lodges. The applicant has been asked to clarify the position for drawing back development from the cliff edge. The Council's Senior Engineer has noted the submission of a plan showing an exclusion zone for development as part of the application. However some of the proposed lodges would be sited within this exclusion zone. The applicant has been requested to submit an updated report from their consultant on their views of development within the exclusion zone and the acceptable risks. This additional information is awaited.

8. Impact on residential amenity -

Residents in Douglas Avenue and St Mary's Drive have submitted objections to the application. Concerns have been raised by residents in Douglas Avenue about the proposed lodges being higher than the existing chalets on the site. The submitted sections do indicate that generally this will be the case. The proposed lodges will be sited approximately 30 metres from properties in Douglas Avenue and will be separated by a landscaped strip and line of parking spaces. It is considered that the proposed lodges would not have an overbearing impact on properties in Douglas Avenue due to the distance that they are sited from these properties.

Residents in St Marys Drive have raised concerns about disturbance from noise, light and loss of privacy. The proposed lodges will be sited in excess of 20 metres from the properties in St Mary's Drive. It is considered that this is sufficient distance to prevent an overbearing relationship of buildings. The existing boundary fence will prevent overlooking between buildings. As the

number of units on the site would be decreased it would be difficult to substantiate an argument that the proposal would result in an increase in noise. Light from the application site will be screened by the existing timber boundary fence. External lighting for the development will be minimal due to the ecological sensitivity of the site and would be unlikely to detract from the residential amenity of adjoining occupiers.

9. The Coastal Footpath -

Representations have been received from the South West Coast Path National Trail Officer and the Hon Sec of the South West Coast Path Association who have requested that the opportunity should be taken to re-position the coast path inland. The coast path adjacent to the site has been closed due to a cliff fall since February 2014. In addition the South West Coast Path Association has also suggested that the proposed development offers an opportunity to make a distinct improvement to the landscape environment of the coast path.

The issue of the diverted coast path has been discussed with the Council's footpath officer and the applicant. The footpath officer considered that there were two options that could be explored. The first was to provide a short term improvement by diverting the existing footpath slightly to the west to avoid the cliff fall area. This would be on land within the ownership of Park Holidays who would be agreeable to a minor rerouting of the footpath. This would not be a straightforward issue to resolve as there is a badger sett in the area and even a minor rerouting of the coastal path would have to be subject of an HRA assessment. This matter would need to be addressed separately to the determination of this application.

The footpath officer will also examine the possibility of a long term solution of providing a new route to the coastal path that would follow the western boundary of the site. It is considered unreasonable to expect Park Holidays to provide a new route for the footpath through their site which is privately owned land. The proposed layout of the site would not provide sufficient space for the footpath to be located on the seaward side of the lodges, which would be preferable in terms of the quality of path that would be provided. In addition the provision of a public right of way through privately owned land would present security and privacy issues for occupants of the lodges.

There does not appear to be a simple solution to rerouting the coastal path as part of this application. This is a matter that requires further consideration by the footpath officer and most practicably should be addressed separately to the determination of this application.

9. S106 Obligations -

Planning obligations are sought to off set the impact of new development on local infrastructure. In accordance with the Council's SPD "Planning Contributions and

Affordable Housing: Priorities and Delivery” contributions are required to off set the proposed new residential development as follows;

Waste Management	£ 100.00
Lifelong learning	£ 170.00
Greenspace and Recreation	£3970.00
South Devon Link Road	£1540.00
Admin charge	£ 289.00

Total for residential development £6069.00

No sustainable transport contribution has been sought because the proposed development would reduce the volume of traffic movements to and from the site.

A monitoring contribution of £15,000 is sought in order that the Council can ensure the lodges are used for holiday purposes only and not for permanent residential use.

The proposal would result in a loss of four full time jobs on the site because of the proposed change in the way in which the site would operate. A contribution of £8240 is sought to address this.

The Senior Transport Officer has requested a contribution of £2000 to update current road signing which will help unnecessary traffic movements from entering the Air Quality Management Area risk area of Bolton Cross.

Total S106 contributions required are £31,309. The S106 agreement has been prepared and signed by the applicant.

Conclusions

In conclusion, the proposed development constitutes an investment in an existing holiday park and would result in upgrading the stock of self catering holiday units in Brixham, with a new facilities building. This would be a positive benefit to the economy and support the tourism industry in Torbay. The principle of the development would be consistent with the objective of Policy TU9 in the Torbay Local Plan 1995-2011.

There are a number of environmental issues that have to be addressed by this application. The site is in a highly sensitive area in terms of its impact on ecology and landscape due to its location adjacent to the South Hams SAC, a SSSI, within the AONB and proximity to the coast. Paragraph 116 in the NPPF advises planning permission should be refused for major developments within the AONB except in exceptional circumstances and where it can be demonstrated that they are in the public interest. Consideration of applications should include the need for development, the cost of and scope for developing elsewhere outside the

designated area and any detrimental effect on the environment and the extent to which they could be moderated.

The application site is in a unique location which is appropriate for holiday use given its location adjacent to St Mary's Bay. The continued use for tourism would make a positive contribution to the local economy. The quality of the existing accommodation on the site is poor and there is a demonstrable need to update it. Without an investment in the holiday park there is a risk that the existing operation would become unviable. It is noted that a number of holiday parks have closed in Brixham in the last few years including Pontins at Wall Park. It is highly unlikely that an alternative site outside the AONB could be provided for this holiday use and therefore there is no scope for this development to be located elsewhere.

In order to inform consideration of the ecological impact of the development considerable survey effort and work has been carried out to assess the impact of the development on the Greater Horseshoe Bat which uses routes adjacent to and across the site to reach important foraging areas. There is a pinch point on this route adjacent to the site and it is important to ensure that the proposal would not have a negative impact on the ability of Greater Horseshoe Bats to continue to use their commuting routes. In addition Greater Horseshoe Bats use two routes to fly through the site. The level of information that has to be submitted to address this issue is high in order to provide the certainty required that the proposed mitigation measures on the site would be acceptable. The Council has to carry out a Habitats Regulation Assessment and an Appropriate Assessment to determine whether the proposed development will result in any adverse residual effect on the integrity of the SAC. This work is still being carried out and will be completed by the committee meeting.

Para.118 in the NPPF advises "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: - if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"

There are important views from the coastal path to the site which are material to the landscape and scenic beauty of the AONB. The proposed lodges would be visually recessive due to the use of dark coloured cladding and tiled roofs. In addition the proposed reduction in the density of development on the site offers the opportunity for additional landscaping between lodges to assimilate the development into the landscape. The submitted sections indicate that the lodges would in a number of instances be higher than the existing buildings on the site which would increase their prominence in views across the site. There are objections from both the Landscape Officer and the AONB Office about the impact of the development on the landscape and visual character of the area.

The applicant has agreed to revise the landscape scheme and has submitted revised plans showing increased planting on the site. A revised consultation response from both the Landscape Officer and the AONB Office is awaited.

The applicant has submitted information to show that the site is adjacent to an area of active cliff erosion. The Council's engineer has requested further information from the applicant to clarify the risk of siting lodges in the locations identified. The permanent buildings on the site would be on the landward side of the 100 year build line. Further information on this matter has been requested and is awaited.

Considerable negotiations have been carried out with the applicant since the application was submitted in respect of the issues identified above. A large amount of work has been carried out by the applicant to satisfy issues raised by officers and consultees. Providing an acceptable level of detail is submitted the proposal would constitute an appropriate form of development in this location.

Condition(s)/Reason(s)

01. Lodges to be occupied for holiday use only
02. Ecological monitoring and early warning strategy
03. Contaminated land assessment
04. Remediation strategy for contaminated land
05. Parking retained on site
06. Landscape implementation
07. Construction and Environmental Management Plan
08. Landscape and Ecological Management Plan
09. Bird Breeding season
10. Development to accord with arboricultural report, its plans and methodologies
11. Details of types of porous surfaces to be submitted within the root protection areas of trees to be retained
12. No external lights on lodges
13. Submission of details about how the applicant or future freehold owner of the site will provide facilities to support and encourage sub letting of the lodges
14. Slab and ridge levels to accord with submitted plan
15. Detailed design for the surface water drainage system must be submitted to and approved before work commences on site
16. New facilities building to be provided within 12 months of the demolition of existing facilities building and to be kept permanently available to serve the site
17. European protected species licence if required
18. Retention of bat commuting habitat and the 'dark areas' as shown on submitted drawing no. P.01.07

19. Set of agreed criteria to trigger contingencies (should coastal retreat result in the loss of land at the cliff edge)
20. Integrated lighting and landscape design strategy
21. Use of tinted glass on lodges 39,40,41,43,44,45,73 and 74
22. Provision of new bat roosts
23. Schedule of materials for development

Relevant Policies

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Application Number

P/2014/0687

Site Address

Land To The Rear Of Broadway
Dartmouth Road
Brixham
Devon

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.

Executive Summary / Key Outcomes

The application seeks outline consent for a development of up to 10 residential dwellings and associated infrastructure, within an area of land to the west of the Dartmouth Road and south of the Weary Ploughman. The site is within the Countryside Zone.

The key issues to consider in relation to this application are the visual and safety implications the proposed access would have on the area and the principle of residential development on this site. Works would be required to the highway in order to bring it up to an appropriate standard and the developer will be required to enter into a Section 278 agreement with the council to ensure the works are undertaken.

Policy L4 of the adopted Local Plan does not prevent all residential development within the Countryside Zone and provided the rural character of the area is not adversely affected point 6 of this policy specifically states that "infill development within the existing areas of settlement" could be acceptable, depending on the size, nature and design of the structures. The emerging local plan identifies the site as within the Churston Village Envelope which would suggest that the council deems the site to be an area of infill within an existing area of settlement. Therefore it is considered that the principle of residential development on the site is acceptable. At this stage the drawings submitted are indicative and, other than for access, are not for determination as part of this application. The application seeks to fix a maximum number of dwellings on the site, a reserved matters application will need to display to the council that a suitably designed and massed scheme is achievable here.

Recommendation

Subject to completion of a S106 legal agreement, outline planning permission be granted with conditions as set out at the end of the report.

Target Date

The 13 week target date for determination of this application is 30.10.2014.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House. Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south. The site is within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding. A Tree Preservation Order covers the east and north boundaries of the site, to the west boundary the land is designated as an Area of Great Landscape Value (AGLV). The site area measures 0.27 hectares.

The site is located within the Churston Village Envelope in the emerging Local Plan "A landscape for success". This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

The application seeks permission in outline for access to a development of up to 10 dwellings and associated infrastructure. All matters other than access are reserved.

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

Summary Of Consultation Responses

Arboricultural Officer No objection to the proposed access, however any future development may be restricted due to the protected trees and hedgeways on the site.

Environment Agency No objection; the recommendations in the submitted contamination assessment should be implemented.

English Nature No objection

Drainage No objection

RSPB Awaiting revised comments

Highways/Strategic Transportation The southern visibility splay will need to be improved, around the radius on Dartmouth Road towards Brixham. The

councils policy would be to adopt the new road. Therefore the developer would need to enter into a Section 38 Agreement with the council and submit detailed technical drawings using dimensions and specifications from The Torbay Council Design Guide. With the additional trips it is recommended that a right turn lane off Dartmouth Road into the existing side road, and suitable road demarcation provided to allow vehicles to turn safely right out of the side road towards Brixham.

Summary Of Representations

A total of 5 representations have been received, 4 supporting the proposal and 1 objecting. The objection although supporting the principle of development of the site, raised issues in relation to the safety of the proposed junction given the increase in vehicle movements. These have been reproduced and sent electronically for Members consideration.

Relevant Planning History

The only relevant planning history is formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues / Material Considerations

The key issues are:

1. The Principle of the Development
2. Visual Impact
3. Impact on Residential Amenity
4. Access and Impact on Highways

1. The Principle of the Development

Saved Adopted Torbay Local Plan Policies 1995-2011

1.1 As the site is within the Countryside Zone the proposal must accord with the requirements of policy L4 of the saved adopted Torbay Local Plan 1995-2011. This policy aims to safeguard Torbay from urban sprawl and the merging of urban areas in order to preserve the special character of these areas and of the towns and villages within Torbay.

1.2 The policy states that Countryside Zones have been identified in areas where it is desirable to retain the existing rural character and development should be designed so as to minimise the impact on the open countryside. An important consideration is therefore whether the proposed development would affect the rural character of the area. The Torbay Landscape Character Assessment describes the land to the west of the site as rolling farmland; however the site itself is defined as having an urban

character (Type 9 Main Cities and Towns). Policy L4 does not prevent all residential development within the Countryside Zone. Point 6 of this policy specifically states that "infill development within the existing areas of settlement" could be acceptable, provided the rural character of the area is not adversely affected. The emerging local plan identifies the site as within the Churston Village Envelope which would suggest that the council deems the site to be an area of infill within an existing area of settlement.

1.3 The current application also requests permission for the formation of an access. The proposed access is off the existing slip road serving the Weary Ploughman public house. It would be at a lower level than the Dartmouth Road and will be partially screened by trees. As such the proposed access would not have a negative impact on the aesthetics of the surrounding area. The proposed access is acceptable.

1.4 Whilst the layout, design and massing drawings are indicative only, they do help illustrate the way in which development could be accommodated on the site. They demonstrate that, on balance there is potential for an appropriate development to comply with policy L4. Policies H2 & H9 require development to be of a high design quality and to be of an appropriate scale, massing and density as well as to incorporate the surrounding residential context. This scheme offers the opportunity to provide high quality design as well as a chance to enhance the environmental and landscape qualities of the area. These matters will be determined at Reserved Matters stage. The proposal therefore has the potential to comply with policies H2 and H9 and H10 of the saved adopted Torbay Local Plan 1995-2011.

Emerging Torbay Local Plan "A landscape for success"

1.5 Within the emerging Local Plan the site remains within the Countryside Zone. However it is also included within the Churston Village Envelope, this policy allows for suitable infill which is of an appropriate, modest scale and is consistent with the relevant Local Plan Policies. The emerging plan policies do carry some weight at this stage although the adopted Local Plan policies carry more weight.

1.6 Policy DE7 (design) of the emerging Local Plan, which is in line with para. 55 of the NPPF, is also relevant and carries a little weight to the decision making process. It requires development to;

- Have a clear urban structure and grain that integrates with the surrounding context;
- Relate to the surrounding built environment in terms of scale, height and massing; and

- Evolve high quality architectural detail with a distinctive and sensitive palette of materials

1.7 The indicative plans submitted with the application would not be acceptable in relation to this policy. But they do show that up to 10 homes could be built on the site subject to meeting the design policy objectives.

1.8 In relation to the policy requirements of the existing and emerging Local Plans, as describes above, it is considered that the principle of development is acceptable. Detailed matters, such as design, will be considered at Reserved Matters stage.

2. *Visual Impact*

2.1 The visual impact of the proposed access will be minimal given the existing tree coverage, that it is slightly lower than road level and that it is located off of an existing access used as a slip road to the Weary Ploughman.

2.2 It is considered that the visual impact of the residential development would be acceptable with a suitable layout, design and landscaping scheme. This can be considered as part of the Reserved Matters stage.

3. *Impact on Residential Amenity*

3.1 The site is not located in an area where there are numerous residential properties at present and as such the only impact will be on the adjacent property know as "Broadway". The application at this stage is in outline and solely for access, the number of dwellings and their siting is yet to be determined and therefore the potential impact on this property would need to be judged at Reserved Matters stage.

3.2 The Weary Ploughman public house is in excess of 50 away from the site. Given this distance it is considered that there would be no unreasonable amenity issues to this building as a result of the development of this site, however this will be reconsidered once a Reserved Matters application is submitted.

4. *Access and Impact on Highways*

4.1 The consultation responses suggest that the access will require improvements in order to be sufficient to allow for residential purposes. These include the addition of a right turn lane off of Dartmouth Road and suitable road demarcations to allow safe right turns from the development. However there is scope to achieve these requirements, within and immediately adjacent to the site and within the carriageway. In order to ensure these works are undertaken the developer will be required to enter into a section 278 Agreement with the Council. It is also likely that the Council will enter into a section 38 agreement to adopt the access road. As such technical drawings and

specifications compliant with the Torbay Council Design Guide will be required.

4.2 The objection to this application, whilst supporting the principle of development, raised issues in relation to the safety of the proposed junction given the increase in vehicle movements. However it is considered that these issues can be overcome by the submission of detailed drawings and a Section 278 Agreement with the council.

S106

The applicant has confirmed that they wish to enter into a Section 106 agreement and this process is underway.

Conclusions

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

Condition(s)/Reason(s)

01. Reserved Matters) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:(i) layout (including the siting of the proposed dwellings, car parking & bin and cycle stores);(ii) scale (including the datum level at which the dwelling are to be constructed in relation to an agreed fixed point or O.S. datum);(iii) appearance (including materials for all external hard-surfaced areas);(iv) landscaping (including boundary treatment and all means of enclosure);b) The reserved matters shall be carried out as approved.c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To ensure that adequate information is available about the detailed nature of the proposals and in accordance with the objectives of Policies BES, BE1, L4, H9 and H10 of the Saved Adopted Torbay Local Plan 1995-2011.

02. The recommendations and proposals set out in the 'Preliminary Geotechnical and Contamination Assessment Report' undertaken by 'Ruddlesden Geotechnical Ltd' dated December 2013 (ref: SR/CG/DT/13476/PGCAR) submitted with this application, shall be implemented in full prior to any development taking place.

Reason: To ensure that appropriate measures are taken regarding the potential for contaminated land on the site in accordance with Policy EPS, EP3 & EP7 of the Saved Adopted Torbay Local Plan 1995-2011.

03. Prior to the commencement of development a Section 278 Highways Agreement shall be entered in to, in order to secure the necessary works to the public highway. The 278 works shall include work to Dartmouth Road to form a right turn filter lane to the site including road calming measures. This shall include detail of materials and finishes to be used. The works shall then be implemented prior to the occupation of the first dwelling.

Reason: In order to ensure a suitable form of development in accordance with Policies TS, T1, T2, T3, T18, T22 and T26 of the Saved Adopted Torbay Local Plan 1995-2011.

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

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

Relevant Policies

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Agenda Item 7

Application Number

P/2014/0311

Site Address

St Margaret Clitherow RC Primary School
Polhearne Way
Brixham
Devon
TQ5 0EE

Case Officer

Carly Perkins

Ward

St Marys With Summercombe

Description

Construction of a new teaching block.

Executive Summary/Key Outcomes

This proposal was considered at the August 2014 meeting of Development Management Committee, but a decision was deferred to allow officers to negotiate on design and secure an acceptable travel plan. Those matters have now been addressed.

The proposal is for a detached two storey mono-pitched school building to the north west of the existing school building. The proposal will involve partly excavating a grassed bank so that the building will be level with the existing school. The building will house 3 classrooms and a reception area. The proposal will enable the removal of a temporary hut building on completion of the works.

The need for the additional school places and the potential for them not being provided is a material consideration to be assessed against other policy considerations of design and the impact on the setting of the Conservation Area. On balance it is considered that the benefits of the scheme outweigh the slight negative visual impacts of the building. This opinion is based on the fact that the proposed building would now be sited further away from neighbouring residential properties than originally proposed, is partially screened by existing landscaping, the relationship with the existing school building, that it will facilitate the removal of an existing temporary building and the positive social impacts of the new classroom facilities.

There is a poor highway safety record in the locality with 39 casualties in the last 5 years (well above the national average which would suggest there should be approximately 10-11 casualties for a population of this size). In the absence of mitigation measures (e.g. a Travel Plan) there would be serious concerns regarding the impact of the development on highway safety. However, a recently submitted travel plan now shows proactive commitment by the school to

implement mitigation measures, in tandem with the school development plan, that reduce to an acceptable level the highway safety risks associated with the development.

Recommendation

Approve, subject to conditions, including implementation of the agreed travel plan, and expiration of the consultation period on revised drawings (subject to no new planning issues being raised).

Conditions will be confirmed to the Members at the Development Management Committee.

Statutory Determination Period

8 weeks, the determination date was the 7th June 2014 however it has been agreed to extend this in order for the application to be revised in light of officer concerns regarding design and highway safety.

Site Details

The application site is a primary school building positioned towards the north west of the site with playgrounds and playing fields located towards the south east. The main school building is largely flat roofed and single storey with a pitched roof section over the assembly hall and southern part of the building. There are also some elements of the building that protrude above the main roof which are assumed to house plant and other machinery these elements are also flat roofed.

There are 9 parking spaces towards the front of the school site as well as 10 cycle spaces.

Detailed Proposals

The proposal is for a detached two storey mono-pitched school building to the north west of the existing school building. The proposal will involve partly excavating a grassed bank so that the building will be level with the existing school. The building will house 3 classrooms and a reception area providing accommodation for an additional 60 children. Following consideration by Development Management Committee in August and negotiations by officers the building has now been moved approximately 4.00 metres to the south west and away from properties to the north east of the site. The proposal will enable the removal of a temporary hut building on completion of the works.

The proposals will also include 10 additional cycle storage spaces and 30 scooter storage spaces. There will be no increase in the number of car parking

spaces within the site.

The Higher Brixham Conservation Area runs along the north east and south east boundary of the site and the proposal will be partially visible from it such that the proposal will have an impact on the setting of the Conservation Area. The application site is bounded by residential properties with the closest being located approximately 19m from the proposal.

Summary Of Consultation Responses

Conservation Officer: The existing site is predominantly single storey with a taller school hall towards the centre. The building is highly visible across the valley and the proposal, in its current location, would be highly visible as you enter the school. The revised proposals will lessen its impact on the immediate neighbours. The current scheme has little relationship with the school and does not allow for further expansion in the future.

Transport Officer: In the absence of an acceptable Transport Plan, Strategic Transport objected to the application (as reported to the August Committee). A Travel Plan has now been received and the views of Strategic Transport will be reported at Committee.

Education: Torbay is currently experiencing a growth in primary aged pupils across Torbay. The Local Authority has been expanding primary schools in all 3 towns in order to meet this increase in demand. The growth in Brixham is not as significant as in Torquay and Paignton but there is a need to provide some extra places in the town to accommodate a few particularly large year groups from September 2013.

Following extensive consultation with all schools, it was agreed that St Margaret Clitherow offered the best solution for the following reasons:

- o It is in the right location - some of the other Brixham schools are located in more peripheral parts of the town so there would be greater distances for parents and children to travel.
- o As St Margarets Clitherow is a Voluntary Aided School there was an opportunity to access some other capital funding for the project that would not be available for a community school. This provided match funding for the Council resources that were allocated to the scheme and offered excellent value for money.
- o The school had a PAN (Planned Admission Number) of 20. This was a difficult number for class organisation and for planning and funding purposes. From September 2013, the school increased their PAN to 30 which is a much better number in terms of curriculum and financial planning and will have educational benefits for the school and its pupils.

The school have already increased their PAN for September 2013. Their existing class structure meant that they could manage for one academic year without the need for additional accommodation. If this project does not proceed then the school will be unable to accommodate pupils who have already been offered a place for September 2014. The Local Authority would not be able to fulfil its statutory duty to provide sufficient primary school places in Brixham resulting in the Local Authority having to fund expensive transport costs to take these children to other schools in the Bay.

Building Control: No known contaminated land issues. Consider geotechnical issues, fire requirements, radon gas/methane areas, drainage/solid waste storage and disabled provisions. Building Control should be contacted for pre-application advice.

Summary Of Representations

A number of representations of objection and 1 petition have been received. Issues raised:

- o Impact on privacy
- o Proposal not in keeping with local area
- o Proposal sets a precedent for this type of development
- o Impact on parking and highway safety
- o Impact on noise
- o Proposal should be single storey

Brixham Town Council: Refusal - out of scale and overbearing to the detriment of neighbouring properties

Relevant Planning History

P/1993/0367 Alterations and extensions, erection of temporary classroom, to change school from infant to junior status with additional parking as revised by letters dated 26.4 and 4.5.1993 and plans received 30.3 and 28.4.1993
APPROVED 13.05.1993

P/1995/0383 Variation of condition 2 attached to permission 93/0367/PA to allow permanent siting of classroom unit APPROVED 12.05.1995

P/1995/0922 Formation of an additional classroom APPROVED 03.10.1995

P/1998/0863 Variation of condition 1 attached to permission 95/0383/PA to allow permanent siting of classroom unit APPROVED 06.06.1998

P/1999/0958 Extension to provide classroom and associated facilities
APPROVED 28.10.1999

Key Issues/Material Considerations

The relevant considerations are the impact of the proposed development on residential amenity, the character and appearance of the area and highway safety and the availability and need for primary school spaces in Brixham.

The Principle of School Expansion:

As noted in the consultation response from Children's Services, there is a need to provide extra primary school places in Brixham in order to accommodate a few large year groups from September 2013. Following consultation with all schools St Margaret Clitherow was concluded to be the best solution. Paragraph 72 of the NPPF states that great importance is placed on ensuring that there is a sufficient choice of school places available to meet the needs of existing and new communities and that Local Authorities should take a proactive, positive and collaborative approach to meeting this requirement. Similarly Policy CF1 and CF10 of the Torbay Local Plan supports the provision of new and improved community facilities such as schools providing they would be readily accessible to the local community including pedestrians and enjoy good access to public transport, would not impact adversely on adjacent properties and surrounding neighbourhood, the schools are of sufficient size to accommodate new school facilities, the proposals safeguard existing playing fields and would not cause serious congestion or a road safety hazard.

In line with both local and national policy, the need for and the principle of providing additional school spaces is considered acceptable.

Highways Safety and Parking Provision:

Representations have been received regarding the impact of the development on highway safety and off-site parking and are noted. The transport assessment noted that currently the most popular mode of transport to school was via the private car either individually or by car share producing 72 pupil related vehicle trips in each peak hour (morning and afternoon). In addition it was note that 83% (19 vehicle trips) of staff travel to the school by car with some using the school car park and others parking on Polhearne Lane or Longcroft Avenue, the staff however would generally arrive and leave school outside of the morning and afternoon peak hours. The transport assessment gave consideration to the safety of non-motorised users which included consideration of personal injury data for the highway network in the vicinity of the school covering a period of 5 years from 3rd April 2009 until 21st January 2014. There were 34 personal injury incidents which involved 39 casualties during this time of which 18 were pedestrians, 2 were cyclists and 7 involved children under the age of 18. Of

these incidents 6 occurred within school peak periods and involved 6 pedestrians, of which 5 were school aged children. When comparing these amounts with national data, it was concluded that the incident rate in this area is very concerning being well above the national average with the national data indicating that casualties should be around 10-11 over 5 years given the size of the population whereas the amount here is beyond this at 39 casualties.

It is noted that 55% of the additional 60 pupils who will attend this school as a result of the proposal are likely to travel by car which is equivalent to an additional 33 pupils travelling by car and an additional 4 teacher trips. The assessment noted no current issues with staff parking but recommended that all staff cars should be accommodated within the grounds of the school in the interests of good neighbourliness. The assessment notes that it is important that the expansion of the school does not generate any more off-site parking and it is vital that all additional staff are accommodated on site. It is noted that road network and nearby junctions could continue to operate effectively when considering the additional traffic demand as a result of the proposal. The assessment also noted that parents were not observed to be contravening parking restrictions during the assessment period however it is noted that a public representation has stated otherwise and provided photographic evidence.

The assessment makes several recommendations in terms of both hard and soft measures in order to improve pedestrian and highway safety. These include road safety lessons, the provision of formal crossing points including a school crossing guard, the potential for a 20 mph zone and the provision of additional school signage. In the concluding paragraph the assessment made it clear that the expansion is likely to raise an issue of safety that requires attention and whilst it is only a rough estimation regarding accident analysis in the area it is nonetheless clear that the information gives sufficient cause for concern that should be given further consideration. Paragraph 32 of the NPPF notes that developments that generate significant amounts of movement should be supported by a transport assessment which take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network to limit the significant impacts of the development. In addition it states that developments should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this instance there are serious safety concerns whether or not there is a safe access to the site for pedestrians in terms of both the existing situation and the proposed situation which increases the amount of vehicles and pedestrians accessing the site such that it is considered that for reasons of highway safety the proposal could be refused in its current form.

In response to the concerns raised by the assessment and by the strategic transport officer, the school has undertaken a school transport survey with the parents to obtain information regarding how they travel to school and if not, why

they don't use public transport, cycle, scoot or walk. This survey confirmed some of the points raised in the assessment regarding the availability of foot paths and safe access to the school. The survey is not sufficient on its own to alleviate the concerns regarding highway safety and that this must be reflected into actions within a travel plan. Members will be updated, at the Development Management Committee meeting, on the detail and delivery of a recently submitted travel plan.

Character and Appearance:

Representations have been received regarding the impact of the development on the character and appearance of the locality noting that the proposal is not in keeping with the area. The existing school buildings are largely flat roofed and single storey expanding over a large footprint. There are some taller pitched roof elements towards the centre and southern end of the building but it predominantly reads as a single storey building. The building is set at a lower level than dwellings adjacent to the north and east such that views from these properties are predominantly above and beyond the school building itself. The proposal is for a two storey detached building positioned approximately 2m north of the existing school building. There is an existing grassed bank to the north of the building which will be partially excavated to provide a building at the same level with the existing school and lessen the impact on the surrounding properties. The proposed building, as shown in revised drawings, is accommodated within the existing school site a minimum of approximately 4.0 m from the northern boundary of the site, demarked by the southern edge of the footpath between Polhearne Way and Polhearne Lane. There is a mature hedge between the footpath and the proposed classroom building.

The location has been chosen in order to prevent the loss of any outside playground space. The site is outside of the Conservation Area but will be partially visible from it such that the proposal will have an impact on its setting such that any proposal should preserve or enhance the character and appearance of the Conservation Area.

The proposed building features a mono-pitched roof sloping away from the neighbouring properties to the north and takes on a more modern design than the existing buildings on site. Generally speaking extensions to existing buildings should be subservient to the host building allowing for a clear distinction between the existing and the extended. However, it is often the case with schools that old, single storey buildings have become outdated, there is pressure for more classroom space and a need to retain outdoor play space. Consequently, two storey extensions are often required and make the best use of limited space within a school site.

The proposed building would be sited close to the main school building, is orientated with the main school building and has evidently been designed to work in conjunction with the main school building. The building relates well to the main

entrance of the school and will be a focal point when arriving at the school. The design of the new classroom building will, however, be at odds with the design of the existing school. Officers have sought to secure a design that reflects, but doesn't mimic the character and appearance of the existing school, or an innovative piece of architecture. Several revisions of the proposed design have been submitted for consideration but these revisions have only made amendments to the elevational treatment of the building and retained the original form and scale.

Officers have, through negotiation, sought to improve the proposed design of the building - with some, but limited, success. Alternative design options have been explored. The design of the building, as proposed, is very much as considered by Committee in August. The Committee asked officers to negotiate on the siting of the building (to reduce impact on residential properties) and the detail of windows to the north east elevation.

The need for additional primary school spaces and the expansion of the school is noted and the principle is accepted.

On balance and having noted that the building is partially screened by existing landscaping and surrounding buildings, that it will facilitate the removal of an existing temporary building and that it will provide 60 additional child school spaces in line with national and local planning policy objectives it is considered that the social benefits of the scheme outweigh the negative visual impacts of the building.

Residential Amenity:

Representations have been received regarding the impact of the development on the residential amenities on nearby dwellings. The proposal will be located at a lower level than properties to the north and separated from those properties by an existing mature hedge and footpath. Revised drawings now show the building sited some 4 metres further away from residential properties to the north east (i.e. those most impacted). As such, the revised proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant for the occupiers of these properties.

There are no windows in the northern elevation of the building. In addition the windows located in the north eastern elevation are angled in such a way as to provide a view to the south east only (over the main school building) and not over residential properties. The proposal is not considered to result in any serious detriment to residential amenity by reason of loss of privacy.

Whilst the outlook from the property immediately to the east of the new classroom building will change as a result of the proposal it is not considered that there will be a serious detriment to residential amenity by reason of loss of light

or by reason of being unduly dominant due to the separating distances between the proposal and the boundary of the neighbouring site. Representations regarding noise have been noted but having considered the existing use of the site, the hours of occupations and the number of pupils already occupying the building the proposal is not considered to result in any serious detriment to residential amenity by reason of noise.

Comments regarding the setting of precedents have been noted however every proposal is considered on its own merits and site circumstances and therefore the setting of precedent would not constitute a reason to refuse the application.

S106/CIL -

Following confirmation of the travel plans acceptability (to be submitted at the request of the strategic transport officer) a financial contribution is likely to be requested. A request for a traffic regulation order would require a financial contribution of approximately £15,000. Further details regarding this will be provided to the Members during the Development Management Committee meeting.

Conclusions

The need for the additional school places and the potential for them not being provided is a material consideration to be assessed against other policy considerations of design and the impact on the setting of the Conservation Area. On balance having noted that the building is partially screened by existing landscaping, the existing school building and surrounding dwellings, that it will facilitate the removal of an existing temporary building and the positive social impacts of the building it is considered that the benefits of the revised scheme outweigh the negative visual impacts of the building.

The recently submitted Travel Plan needs full assessment, the outcome of which will be reported verbally to Committee.

Relevant Policies

CF1 - Provision of new and improved community
CF10 - New schools and improved school facilities
BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
TS - Land use transportation strategy
NPPF - National Planning Policy Framework

Application Number

P/2014/0817

Site Address

White Rock Primary School
Davies Avenue
Paignton
Devon
TQ4 7AW

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Construction of a two storey classroom block and dining room extension, together with the provision of a combined cycle/pedestrian path.

Executive Summary/Key Outcomes

The application is for a two storey extension, comprising of six classrooms, and a single storey extension to provide additional dining room capacity. The proposal also includes a connecting cycle path to join the existing path on the Brixham Road to the Davies Road school entrance. The application seeks to meet the growing demand for primary school places in Torbay.

National planning guidance in the National Planning Policy Framework (NPPF) encourages local planning authorities to work positively and collaboratively with schools to help to meet their needs in providing sufficient choice of school places and places great importance on this issue.

The key planning issue with this proposal is the impact of traffic generation on local highways, which is already perceived as a problem by local residents. Therefore, the applicant has been requested to submit a revised Travel Plan setting out how car trips will be reduced by promoting more sustainable modes of travel. The application is recommended for approval, subject to the submission of a travel plan to meet the Councils requirements.

Recommendation

Conditional approval delegated to the Director of Place in order that the detailed wording of the conditions can be finalised.

Statutory Determination Period

The application is a major application because the site area is greater than 1 hectare. The application was validated on 08.08.2014. The 13 week determination date is 08.11.2014.

Site Details

The site is the existing White Rock Primary School which has its main access and entrance off Davies Avenue. The proposal extension would be to the rear of the existing building. The scheme includes the addition of a cycle path to the north of the site. This will provide a cycle link between the Brixham Road from the existing cycle path to the west of the school and the Davies Road entrance. This will provide a more sustainable route for parents and students from the surrounding area and the new housing development to the West of the Brixham Road.

Detailed Proposals

The proposals are for the construction of a new two storey classroom block comprising of 6 no. classrooms and ancillary facilities with a floor area of 836 sq metres; the construction of a small dining room extension with a floor area of 56 sq metres and the provision of a combined cycle/pedestrian path connecting Davies Avenue with the Brixham Road and the existing cycle/pedestrian path.

The two storey extension aspect of the proposal will provide 6 no. new classrooms, WC facilities and circulation space. The proposed extension will be located on the site of the existing swimming pool. In order to site the classroom extension in this location an existing temporary classroom has already been repositioned to a location further west. This was granted permission by application P/2014/0774 which was approved on 17.09.2014. The existing swimming pool and a single storey standalone boiler room/storage building adjacent to the swimming pool are proposed to be demolished. The new classrooms will allow the school to accommodate an additional 210 pupils. This increase will be phased on a year by year basis so that there will be a maximum of 30 additional pupils per year.

The extension has been orientated so as to allow west facing classrooms, which will maximise natural light into teaching spaces.

The proposal includes the addition of a single storey extension to the existing dining room, to cater for the additional students, which will lead into an internal courtyard created by the two storey extension.

It is proposed that the new shared cycle/pedestrian path would be adopted by the highway authority. It will therefore be designed to the required standards for adoption. It is considered that the submission of details of the design, finished materials and lighting should be conditioned and works should not commence until these details are approved by the Council.

Surface water drainage from the new buildings would be to soakaways.

Summary Of Consultation Responses

Highways Officer Highways have no technical issues, but have concerns with the additional vehicles parking in the surrounding roads of the school, at "drop off" and "pick up" times.

Strategic Transport Further comments awaited subject to the submission of a revised travel plan.

Sport England No objection

Natural England No objection in principle; Standing Advice applies

Drainage & Structures Design of soakaways must be submitted before commencement of development on site.

Environment Agency No comment

Summary Of Representations

Three objections have been received from local residents. The following material considerations have been raised:

- Additional on-street parking
- Increase in noise
- Extra traffic impacting on highway safety
- Too tall and out of keeping
- Parents currently park illegally

These have been reproduced and sent electronically for Members consideration.

Relevant Planning History

P/2014/0774 Relocation of single storey temporary classroom building; Approved 17.09.2014

P/2013/0920 Replace an existing temporary classroom with a new temporary classroom and associated drainage; Approved 21.11.2013

P/2008/0089 New swimming pool kitchenette, plant room and external store for sports equipment on land adjoining existing open air swimming pool; Approved 25.02.2008

P/2005/2140 Changing room block; Approved 17.01.2006

P/2003/0338 Extension to include new classrooms toilet and changing facilities; Approved 10.04.2003

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Design
3. Access
4. Impact of Traffic on Highways
5. Impact on Amenity
6. Drainage

1. The Principle of the Development

The principle of the development is acceptable. Local Plan Policy CFS supports all educational infrastructure in principle and Policy CF10 supports the improvement of educational facilities at existing schools provided that:

1. Sites for new schools are well related to existing or proposed residential areas, accessible to public transport and have safe pedestrian and vehicular access;
2. School sites are of a sufficient size to accommodate the satisfactory design and layout of new or improved school facilities;
3. Proposals have regard to the need to safeguard existing playing fields within the school site; and
4. Proposals can be accommodated without undue detriment to surrounding residential areas.

As the school is already in existence criterion 1 is not relevant. It is considered that the proposal accords with criteria 2 and 3 as the extension have been designed to take up minimal footprint to ensure there is no encroachment on to the existing playing fields. Criterion 4 will be discussed below.

Furthermore, paragraph 72 of the NPPF states:

"The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with schools promoters to identify and resolve key planning issues before applications are submitted."

The proposed development is needed to meet the growing demand for primary school places within Paignton. The new building has been sited on the rear of the existing school building in order to safeguard the school playing fields and not encroach closer to the residential properties to the south and east. The new classroom extension would result in the demolition of the existing outdoor swimming pool. However this facility has not been used for in excess of a year. The school currently uses the facilities at the Admiral swimming pool in Brixham where they receive lessons from dedicated swimming coaches. It is therefore considered that this provides a better overall service than the existing pool. It is considered that the extensions can be satisfactorily accommodated on the site in accordance with Policy CF10.2.

2. Design

The new building has been designed to provide a gradual increase in height from that of the existing school building and reduce its overall massing. It is considered that the design results in a development which, although is taller than its surroundings, does not appear overdominant to the existing school building. The increase in height is considered to be necessary to provide the extra floor area whilst limiting the encroachment of the development on to the existing sports field and adjacent residential properties.

Therefore, the design and layout of the proposal is considered to be appropriate and an improvement on the existing arrangement. The height and massing of the new building is also considered appropriate and would not have an overbearing impact on the existing buildings. It is deemed that the proposal accords with Policies CF2, BES and BE1 of the Local Plan.

3. Access

Highways have no technical issues with the proposal as the access is not to be altered. However they do have concerns with regards to the additional vehicles parking in the surrounding roads at the start and at the end of the school day. It is considered that this can be mitigated by the implementation of a suitable Travel Plan. The council has requested the submission of a detailed Travel Plan. The details of this plan will be reported at Development Management Committee (DMC).

The proposed additional car park spaces are acceptable and comply with Local Plan policy.

Therefore, the proposal accords with Policy T26 of the saved adopted Torbay Local Plan 1995-2011.

4. Impact of Traffic on Highways

The new classrooms will allow the school to accommodate an additional 210 pupils. However this increase will be phased on a year by year basis over seven years which allows for a maximum of 30 additional pupils per year.

Based on the current transport modes 58% of pupils are expected to travel to school by car. This translates to 17 extra vehicle trips in the first year increasing on a yearly basis to 122 trips by the seventh year.

Currently 8% of students travel to school by scooter or cycle. It is intended to increase this number by providing extra scooter and bike spaces and the implementation of an appropriately revised travel plan (which it is expected will have been submitted prior to the committee meeting). There are 34 existing cycle parking spaces at the school and 20 scooter spaces. The application proposes an additional 30 cycle parking spaces (15 hoops) alongside an additional 100 scooter parking spaces.

At present, there are 16 car parking spaces at the school site for staff, including 1 disabled bay. As a result of the development proposed it is expected that there will be 30 full time staff and 54 part time staff. Torbay Council's emerging parking standards specify that 1 car parking space is required per 2.5 staff members or full time equivalent. It is anticipated that there will be 57 full time equivalent staff at the school which equates to a requirement of 23 car parking spaces based on the requirements of the emerging local plan. An additional 7 no. car parking spaces are proposed to be provided at the school site to ensure that the number of spaces complies with the emerging Local Plan standards (Policy TA3). The standards in the emerging plan have been used as a guide in this instance as the current Local Plan does not specify the parking standards for primary school developments.

The key issue raised by local residents objecting to the application is the impact of additional traffic generation on local roads, which is already seen as a problem at the school. However, it is the view of the officers, given NPPF requirements and technical advice, that the proposal is considered acceptable provided that a revised travel plan which confirms that the school will take proactive steps to reduce car trips to and from the school by parents and staff. Further negotiation is underway on this issue and will be reported at DMC.

It is important that this travel plan is properly implemented and monitored by the school/Local Planning Authority to ensure that more sustainable travel modes are undertaken in future. New cycle and scooter parking is proposed along with the additional cycle/pedestrian path link.

Therefore, subject to the receipt of a revised and appropriate travel plan (prior to the Development Management Committee) and a suitably worded condition regarding the implementation and monitoring of such a travel plan, the proposal would be considered to accord with Policies CF1.3, CF10.4 and T26.2.

5. Impact on Amenity

Representations have raised concerns about a potential increase in noise. Given

the distance of the proposed classrooms to the nearest residential properties (some 55 metres to the south) and the existence of a wooded area in between, it is considered that there will be no material loss of amenity to the occupiers of these properties. For the same reason, it is not considered that the proposal would result in a loss of privacy to the occupiers of these properties.

6. Drainage

Surface water drainage is proposed to soakaways, but inadequate information was provided in the application regarding their design and suitability. Further information will be required and a Grampian condition will be added to any planning permission. The implementation of the Travel Plan will be monitored by the council.

S106/CIL -

Not applicable in this instance.

Conclusions

The application is acceptable, subject to conditions. The proposal is needed to meet the demand for additional primary school places and would result in a well designed addition which would prevent the encroachment of development onto the playing fields. Although there are recognisable traffic parking problems at the school during school drop-off and pick-up times, it is believed that these can be overcome through the successful implementation of an appropriate Travel Plan in order to promote more sustainable modes of travel, such as walking, scootering, cycling and public transport.

Condition(s)/Reason(s)

01. No development shall take place until details of the design, materials, gradient and lighting of the cycle/pedestrian path hereby approved have been submitted to and approved by the Local Planning Authority.

Reason; In the interests of visual and residential amenity and to ensure the successful implementation of a suitable cycle route, in accordance with Policies TS, T1, T3 & EP5 of the saved adopted Torbay Local Plan 1995-2011.

02. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, number and design of cycle and scooter parking. The cycle and scooter parking shall be provided before the first use of the class room extension hereby approved. Development shall be carried out in accordance with the approved details.

Reason: In the interests of encouraging sustainable use of the new facilities in accordance with Policy T2 of the Torbay Local Plan 1995-2011.

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

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

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

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

05. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping. This scheme shall include details of replacement planting for a minimum of 1 Extra Heavy Standard broad-leaved tree planted in an appropriately prepared tree pit such that it becomes a focal feature for school use or provides shade to the new facility. Reason: In the interest of the amenities of the area, in accordance with Policy BE2 & L9 of the save adopted Torbay Local Plan 1995-2011.

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

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

07. The haulage and construction route shall be outside of root protection areas and canopies as indicated in the supporting arboricultural report.

Reason; To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011 and BS5837.

08. The arboricultural report, its plans and included methodologies shall be enacted in their entirety throughout the build process.

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

Relevant Policies

BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
TS	Land use transportation strategy
T1	Development accessibility
T3	Cycling
EP5	Light pollution
EPS	Environmental protection strategy
L9	Planting and retention of trees
T25	Car parking in new development
T26	Access from development onto the highway
CF8	Primary school provision
CF10	New schools and improved school facilities

Agenda Item 9

Application Number

P/2014/0827

Site Address

5-7 Ilsham Road
Torquay
Devon
TQ1 2JG

Case Officer

Mr Robert Pierce

Ward

Wellswood

Description

2 new Dwellings and Change of use from A3 (Restaurants & Cafes) to A1 (Shop) and also from part,C3 (Dwelling house) to A1 (Shop)

Executive Summary/Key Outcomes

5 and 7 Ilsham Road comprise an adjoining Restaurant (A3) and Shop (A1) within an established Local Shopping Centre with a flat and small office suite above.

They both have subservient rear service wings which connect into two rear buildings that front onto Kents Lane. The majority of the buildings are used for residential purposes comprising 5 existing flats. The small suite of offices has approval for residential use under the 'Prior Approval' notification process.

The application involves the change of use of parts of the ground floors of 5 and 7 to A1 (retail) use, the redevelopment of the dilapidated rear buildings fronting Kents Lane to provide two cottages and the reconstruction of the rear service wing which will provide at first floor level additional bedroom space for the 4 dwellings to be provided as part of this scheme (2 flats above the shop units and 2 cottages to the rear of the site). It will also provide revised covered pedestrian access facilities to serve the flats.

The application has been amended since submission to reduce the scale of the cottages fronting Kents Lane and to secure the retention/reconstruction of the rear service wings at first floor level in place of the single storey flat roofed extension previously included.

These amendments were secured to ensure that the character and appearance of the buildings and the wider Conservation Area are preserved.

The main concern from local residents relates to the change of use of parts of the ground floors of both 5 and 7 to retail use to provide one larger retail unit of around 350m². This is due to fears that the new unit is to be taken by a supermarket.

However, in planning terms this raises little concern; the amalgamation of the 2 units does not qualify as development, the A3 use in No.5 can revert to A1 as 'permitted development' and so all that is in need of planning permission in respect of the future use of the ground floor units is the change of use of the 2 internal covered courtyards to the rear of 5 and 7 and the one bed ground floor flat in the rear service wing of No.7.

This amounts to about 120m² of additional retail floor space which given its location in a Local Centre where the retention and creation of retail floor space is positively encouraged is wholly in line with Local Plan expectations and the requirements of the NPPF .

Recommendation

Conditional Approval, subject to the possible payment of a Unilateral Undertaking to fund modifications to the Traffic Regulation Orders to allow the introduction of a loading bay, receipt of additional revised plans which confirm that the rear service wing is to be rebuilt to fully accord with the existing structure and further detail in respect of the proposed 'plant' at first floor level to ensure that it does not impact on residential amenity. Conditions required as detailed in the conclusion to this report.

Statutory Determination Period

The 8 week determination date is 15.09.2014. An extension of time has been agreed.

Site Details

Numbers 5 and 7 Ilsham Road are identified as key buildings within the Lincombes Conservation Area and form part of a building group of architectural importance which make a significant contribution to townscape. The individual buildings within the terrace consistently step down the street in line with the local topography and, importantly, scale down in height from the principal building facing Ilsham Road to a rear service wing and in the majority of cases to a single storey garage/ancillary storage unit facing Kents Lane. This is a strongly consistent pattern.

No5 Ilsham Road comprises an A3 Restaurant use across the majority of the ground floor with a storage use in the ground floor of the unit facing Kents Lane. There are 2, 2 bed flats included within the building; one above the shop unit and one spanning the first floor rear service wing and ancillary building fronting Kents Lane.

No 7 Ilsham Road comprises an A1 retail use on a majority of the ground floor with an office use above. This has agreement under the 'Prior Approval' process to change to a residential use. It also includes two one bed flats in the rear service wing and a two bed flat in the ancillary building fronting Kents Lane.

Both buildings are designated as being part of the Wellswood Local Shopping Centre (Policy S10).

Both 5 and 7 Ilsham Road have distinctive ground floor entrance doors off Ilsham Road to serve the upper floor flats.

There are residential properties to the rear along Kents Lane. Ilsham Primary school is located opposite.

Detailed Proposals

There are there are three broad elements to the revised scheme:

- 1) The amalgamation of the ground floors of the two units fronting Ilsham Road, which are at slightly different levels into one larger A1 retail unit. This will incorporate the two inner courtyards and the ground floor flat.
- 2) The redevelopment of the two rear buildings fronting Kents Lane to provide a pair of semi-detached cottages with integral garages.
- 3) The retention/reconstruction of the two existing rear service wings. This will be used to provide additional bedrooms to the first floor flats and new cottages and to provide a covered access to the flats. Small patio areas will also be created within this central area to serve the flats and the new cottages. It also includes provision for a covered plant area.

Summary Of Consultation Responses

Highways and Strategic Transportation Officer. Whilst a Transport Statement / Assessment (TA) could be requested, given its location directly opposite a primary school, a condition could be applied to both shop units prohibiting servicing including deliveries / collections during school peak times, specifically 08:00 - 09:00 and 14:30 - 15:30 would mitigate the need for this document. A contribution towards funding the modification of the Traffic Regulation Order to allow the introduction of a loading bay is also requested, this could be secured via a Unilateral Undertaking.

Highways and Strategic Transportation Have no objection to the residential aspect of the application.

Summary Of Representations

Numerous public representations have been received (60 plus) in respect of the proposal. The majority oppose the development but there are 5 in support.

The main issues raised in respect of the retail element include:

- 1) Limited Parking
- 2) Impact on Village ambience
- 3) Highway Safety
- 4) A convenience store would take away trade from the other shops.
- 5) Conflict with existing parking
- 6) Need for a loading bay
- 7) No Transport Statement
- 8) Highway Safety (conflict with deliveries/parking during school hours and safety of children.
- 9) Disposal of asbestos.

The main issues raised in respect of the residential element include:

- 1) Height of the two new cottages
- 2) Overlooking from cottages into house opposite
- 3) Concerns about creating access to first floor flats from Kents Lane

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

Relevant Planning History

P/2014/0328: Change of use of the upper floor of No 7 Ilsham Road from B1 to Residential: Prior Notification Not required 29.5.2014

DE/2014/2081: 2 new dwellings and formation of larger Retail Unit Supported in principle 10.7.2014.

Key Issues/Material Considerations

The key issues are:

1. The use of the ground floors of both 5 and 7 Ilsham Road for retail purposes.
2. The design and amenity implications of the conversion/adaptation of the remainder of the premises to provide 'new' residential development.
3. Highways requirements.

Each will be addressed in turn:

1. The Use of 5 and 7 Ilsham Road for retail purposes.

It is this aspect of the proposal which has caused most controversy amid fears that the potential occupier may be a supermarket operator. However, from a planning point of view there are no reasons to oppose the application.

The combination of the 2 units to form one larger retail unit does not of itself require planning permission. The A3 use in No 5 Ilsham Road could revert to an A1 use as permitted development. What therefore requires consent is the change of use of the one bed flat in the rear service wing of No 7 Ilsham Road plus the incorporation of the 2 covered courtyards.

This amounts to a relatively minimal area of 120 M2 which requires the benefit of planning permission for a change of use to A1. The application site is within a Local Centre where the retention/creation of shopping floorspace is positively encouraged in order to help reinforce the shopping function of the designated centre. The minor increase in floorspace arising from the proposed change of use is thus fully compliant with local plan policies, specifically policy S10 of the Adopted Torbay Local Plan and the relevant provisions of the NPPF which seeks to ensure that existing centres are supported by the provision of retail floorspace in such sustainable locations.

What is of relevance from a planning perspective, is any modifications to the appearance of the buildings arising from the combination of the 2 units. In this respect it is important to consider the strong vertical division of the terraced units which is reinforced by the typical 'stepping' down of the units in line with the topography.

It is important that this is retained and any change in level accommodated within the building. It is also important that the character of the paired shopfronts is retained along with their attractive entrance doors to the upper floor flats with their attractive architectural detailing. These are important features within the street scene and are typical of the Wellswood Village shops. Whilst the scheme does result in the loss of the internal separate access to the upper floors the applicant has agreed to retain and refurbish these external features restoring lost detail. A condition can be worded to ensure that the visual separation of the units is preserved along with restoration of the key features described as currently changes to the shopfronts do not form part of the application.

2. The Design and Amenity Implications of the Conversion/Adaption of the remainder of the buildings to Residential Use.

Currently there are 5 existing residential units within the scheme (2 within No 5 and 3 within No7) plus a 'Prior Approval' office to residential change of use in

No7 which has not yet been implemented. As a result of this application, there will be 4 residential units (one of these being the 'Prior Approval' dwelling) resulting in a net decrease of 2 dwellings. Thus there are no concerns relating to the scale or intensity of use on the site.

The main objections in relation to this aspect of the scheme relate to the height of the 'cottages', the impact on privacy particularly arising from the use of the flat roof included in the original submission, and the proposed access to the flats from the rear.

As originally submitted, the application included cottages with a steeply pitched roof with dormer windows which attained a height in excess of the principal building on the site. Given the subsidiarity of the buildings as they range from the front of the site to the rear, this lack of subservience was considered a serious design failure. The application also involved the demolition of the two storey rear service wing and its replacement with a single storey full width flat roofed extension. This was at odds with the consistent character of the remainder of the terrace and was visible from several public vantage points.

The applicant was advised that these aspects of the proposal had an adverse effect on the character and appearance of the Lincombes Conservation Area and that the cottages should be scaled down to achieve a more subservient relationship to the remainder of the property and that the characteristic rear service wing should be retained. He was also advised that the provision of a flat roof area over which access was gained to flats was an erosion of the existing residential environment and likely to create amenity concerns through overlooking/noise nuisance.

In response the applicant has agreed to reduce the scale of the cottages by deleting the accommodation in the roof and reducing the pitch and to retain the service wing albeit that it may have to be largely rebuilt due to its poor structural condition. The deleted bedrooms from the cottages have been relocated to occupy the retained/rebuilt service wing and this space is also used to provide the existing flats facing Ilsham Road with an additional bedroom each.

The concerns that the residents of the residential buildings opposite have in relation to overlooking from the cottages needs to be considered in the context that this overlooking takes place across a public space and that residential uses already exist in the existing buildings.

It should also be borne in mind that the exiting ancillary buildings fronting Kents Lane are an eyesore and that this development will lead to a significant improvement in their appearance; they will sit quite comfortably within the street scene and will now make a positive contribution to the character and appearance of the Conservation Area.

3. Highways Requirements

Highways have requested the imposition of a condition to control servicing in order to avoid peak school times. In a busy shopping parade this may be difficult to manage and enforce. Further, Highways have suggested that money be sought from the applicant to fund the provision of a loading bay. This could be secured through a Unilateral Undertaking. However it would be subject to consultation and the loss of car parking if a loading bay were introduced could be of concern to residents. Given the scale of the proposal, further advice from Highways will be sought about the nature of the scheme and the likely mitigation needed in terms of highway safety. An update will be provided at the Committee Meeting.

S106/CIL -

Due to the net reduction in the number of residential units on the site from 5 (potentially 6 if the prior approval flat was implemented) to 4 (including the prior approval unit) there is no need for any community infrastructure contributions to mitigate the impact of the development on the local area. A contribution via a Unilateral Undertaking may be needed to fund the TRO to allow the introduction of a loading bay.

Conclusions

The main reason for the level of objection relates to the provision of an enlarged retail unit and the fear that a supermarket operator may take up the unit. Whilst the concerns about competition, impact on existing shops, parking and servicing are all understood, it is necessary to be clear about what actually needs planning permission and the policy implications of this. The amalgamation of the 2 ground floors does not to qualify as development; the A3 use in No 5 can revert to A1 as 'permitted development'. This leaves a relatively discrete level of increase in retail floor space in the order of 120m² comprised of covered internal courtyards and a one bed ground floor flat.

The site is within an identified Local Centre and the thrust of the relevant policies is to maintain the vitality and viability of the parade for shopping purposes. This application is thus fully compliant with relevant local plan policies and the NPPF which promotes the creation of sustainably located retail opportunities within existing centres.

In terms of the residential element of the scheme, there is a net reduction in the number of residential units on the site and concerns about the height and dominance of the cottages have been addressed. The adverse impact of the flat roofed extension particularly in design terms has been mitigated by the retention of the characteristic rear service wing. Whilst this may require extensive

reconstruction due to its poor condition, revised plans have been requested to ensure that it is carried out sympathetically and in a manner that matches the rest of the terrace. Additional information is required about the nature of the covered plant room and data in relation to possible noise nuisance given its proximity to new residential accommodation.

Subject to this, the proposal is now considered acceptable, it secures the vitality and viability of an identified local centre, delivers a smaller number of larger residential units, and will achieve improvements to the quality of the townscape and thus to the character and appearance of the wider conservation area.

Appropriately worded conditions are needed to secure large scale detail of the proposed changes to the building, the restoration of architectural detail in relation to the shopfronts, clarity about retaining the 'stepped' changes and verticality in any shopfront or signage application and securing functional requirements in relation to adequate bin and cycle storage and in relation to plant provision.

Condition(s)/Reason(s)

01. No servicing including deliveries and collections to Nos 5 and 7 Ilsham Road shall take place during school peak times specifically between 8am and 9am and between 2.30pm and 3.30pm unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and highway safety during school hours, in accordance with Policy S10 of the saved Torbay Local Plan 1995-2011.

02. Prior to the commencement of development details of the type, specification and the location of any necessary extraction and ventilation system shall be submitted to and approved by the Local Planning Authority, which shall also include an operational statement that outlines the food processes that the system seeks to manage. The approved system shall be installed and permanently maintained to the agreed specification thereafter whilst the operation is in use.

Reason: In the interest of the amenity of the surrounding area and in accordance with requirements of policies EP3 and EP4 of the Saved Adopted Torbay Local Plan 1995-2011.k

03. No deliveries or collections to the retail unit at Nos 5 and 7 Ilsham Road shall be carried out from the rear access lane (Kents Lane) unless otherwise agreed in writing by the Local Planning Authority. Reason: In the interests of residential amenity, in accordance with Policy S10 of the saved Torbay Local Plan 1995-2011.

04. Before any plant and machinery is used on the premises, it shall be enclosed with sound insulating material in accordance with a scheme to be

approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity, in accordance with Policy S10 of the saved Torbay Local Plan 1995-2011.

Relevant Policies

- S10 Local Centres
- SS Shopping strategy
- H4 Conversion and sub-division into flats
- H9 Layout, and design and community aspects
- H10 Housing densities
- BES Built environment strategy
- BE1 Design of new development
- BE5 Policy in conservation areas
- T25 Car parking in new development
- T26 Access from development onto the highway
- T27 Servicing

Application Number

P/2014/0634

Site Address

59 Rock Road
Torquay
Devon
TQ2 5SR

Case Officer

Mr Scott Jones

Ward

Tormohun

Description

Demolition of existing bungalow with annexe and erection of 11no. bespoke apartments; associated parking and amenity spaces

Executive Summary/Key Outcomes

The application is to demolish the existing mid 20th Century bungalow on the site, remove the stone outcrop on which it sits (down to the adjacent road level), and construct a modern six-storey building that would provide 11 apartments with 11 parking spaces.

The plot is in a prominent location within the Torquay Harbour Conservation Area and it sits between two Listed Buildings (Delmonte and 55/57 Rock Road). The visual impact of the proposal is a key material consideration, along with any impact upon neighbour amenity and on parking and movement in the area.

The scale and modern form of the building is considered acceptable in the context where large buildings are set informally around the hillside in landscape surrounds. The scheme has been amended since submission by the deletion of a side extension, which it was felt encroached unacceptably on the adjacent listed building 55/57 Rock Road, and by greater use of natural stone to 'encase' the building and assimilate it into its landscape setting. As a result, the visual impact of the building is now considered acceptable within what is a sensitive setting.

In terms of residential amenity the scheme retains acceptable living conditions for the occupants of Delmonte to the south, where the gap between buildings will be approximately 14 metres across rocky sloping gardens and parking. The deletion of the side extension mitigates potential amenity issues in relation to 57 Rock Road to the north.

Parking is proposed at a ratio of 1:1 within a ground floor under-croft. The level of parking is considered acceptable such a central location with good access to facilities and bus, train and cycle links. The scheme also details improvements to the parking facilities for Delmonte which will improve the level of parking for residents.

As the scheme increases the number of dwellings on the site developer contributions would be required to off-set the impact upon social and physical infrastructure. The agent has confirmed that the applicant is willing to enter in to an agreement to secure the necessary funding.

Recommendation

Committee site visit; conditional approval, with conditions as laid out within this report and any further necessary conditions delegated to the Director of Place; subject to completion of a S106 agreement. The S106 agreement is to be completed by 8th January 2015 or the application shall be refused for reasons of a lack of 106 agreement.

Statutory Determination Period

This is a Major Planning Application. The 13 week target date was the 24th September 2014. An agreed extension of time has been fixed until the 8th January 2015 to permit positive changes to the scheme and the s106 to be resolved.

Site Details

The site is located off a private road towards the southern end of Rock Road. A mid 20th Century bungalow set on a rocky outcrop and elevated from the adjacent road occupies the site.

The plot sits on a hillside with a strong residential character with visually prominent and substantial buildings set in the landscape.

The setting of the plot is sensitive, sitting in a prominent location within the Torquay Harbour Conservation Area between the listed buildings of Delmonte to the south and 55/57 Rock Road to the north, both mid 19th Century Victorian Villas.

Behind the building to the west are retaining walls and rock-face that rise to further residential development set on higher ground off Warren Road.

The site overlooks the Fleet Walk shopping arcade and car park and is visible particularly from Torquay Harbour.

Detailed Proposals

The application is for demolition of the existing building and redevelopment of the site with 11 apartments, including the removal of a significant amount of rock to provide level access to the adjacent road.

The proposed building is 35 metres wide and 17 metres high from road level to the flat roof level of the upper penthouse area.

The southern end elevation extends up to the edge of the site to a point approximately 14 metres from Delmonte. The northern end elevation extends to within 8 metres of 57 Rock Road. The lateral proximity of buildings to each other varies in the area and these proposed distances are typical when considering the broader pattern of development.

The building rises from a under-croft parking area, to three principal storeys finished in render, upon which sits a roof storey clad in dark grey. To the south of the central stone column there is a partial sixth storey, which is again clad in dark grey. The side elevations are finished in natural stone. The building steps back within the site as it rises through the floors.

The building will provide three apartments within each of the three principal storeys, with two apartments provided within the roof storey, one of which is supplemented by space within the sixth floor element. The 9 apartments within the three lower floors are all circa 70m² in floor area, with the upper two apartments slightly larger.

The development includes the provision of a shared surface throughout the private drive, which retains existing parking spaces and creates additional parking spaces for the adjacent property (Delmonte).

The potential for supplementary landscaping is limited due to the extent of site coverage. However a submitted landscape plan seeks to retain a landscape setting for the building and specifically the green freeboard to the rear, where there is presently a natural softening of a substantial retaining wall.

A geotechnical report has been submitted. This concludes that the site is capable of supporting the development. A more detailed survey is recommended when ground conditions can be better assessed, following removal of the existing building and outcrop.

Summary Of Consultation Responses

English Heritage: Comments received that pre-date recent amendments cited that the site currently has an open and green quality and due to the extent of development proposed this green sense of setting, particularly on the end adjacent to 57 Rock Road, may be diminished. Comments cited that a decrease in the extent of development, to create a more substantial gap between the development and Number 57, would help retain the green backdrop and reduce the horizontal emphasis of the building.

English Heritage's concluding recommendation is that the above is addressed and determined on the basis of local specialist conservation advice.

The recent changes to the scheme that removes the side extension and

increases the gap to Number 57, together with the change to stone side elevations, is considered to provide a scheme that meets English Heritage requirements.

Conservation And Design Team: Content with the design of the building which is bold and innovative in a highly prominent location.

Initial concern in regard to the setting of the listed building at 57 Rock Road, where the flank wall of the new building sat close to a principle elevation of the listed building, has been addressed by revised plans received 24th September.

The revised treatment of the side elevations, which are now stone, lessen the prominence of the building and successfully draw it into the landscape setting.

The building is now considered acceptable in regard to its impact upon the setting of the adjacent listed buildings and wider Torquay Harbour Conservation Area.

Highways Department: Raise no objection to the principle of the development. The amount of parking (1:1) appears to be an adequate provision when considering the central location. The spaces also accord with size standards and the access is workable in terms manoeuvring in and out of the undercroft.

Strategic Transport : Requests that planning obligations to mitigate the impact of the development should be sought to improve cycle links in the area.

Engineering Department: The geotechnical report is preliminary but shows the site is stable. The report concludes that the precise nature of on-site works should be informed when full geotechnical access is available.

A condition should be attached to any approval of planning permission requiring a detailed report by a suitably qualified professional be submitted and that conclusions and considerations of such a report be recognised by the developer.

South West Water: No objection.

Drainage: No objection.

Summary Of Representations

Ten letters of representation received that raise the following issues;

- Overlooking towards Delmonte and to the rear
- Increased traffic during and after construction
- Too large for the site

- Not in keeping with the surrounding buildings
- Land stability
- Impact upon listed buildings and the Conservation Area
- Overshadowing towards 57 Rock Road
- Noise impact
- Loss of parking for Delmonte residents
- Overdevelopment

Relevant Planning History

Torbay Design Review Panel (DRP) Comments:

A 2010 scheme that showed 12 apartments in a building in 5 floors of accommodation and basement parking received broad support. The comments included suggestions that the massing should be simplified and relate better to the conservation area, that potential other residential uses are explored, such as townhouses, and that any scheme should seek to retain the green cliff space behind. The formal response of the Torbay DRP to this earlier scheme are provided within the representations.

Pre-Application Enquiries:

A 2013 scheme similar to the proposal currently under consideration was seen as a positive response to the Torbay DRP comments and, subject to detail, one which was considered by officers to largely address the previous complex massing. Further detail on the wider visual impact of the proposal was deemed necessary to fully understand its visual impact.

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

Key Issues/Material Considerations

The main issues are:

1. The principle of residential apartments in this location
2. Visual impact, including the impact upon the Torquay Harbour Conservation Area and the setting of adjacent Listed Buildings
3. The quality of the residential environments proposed
4. Amenity impact upon neighbouring plots/occupiers
5. Highway, movement and parking issues
6. Land stability

1. Principle and Planning Policy:

The proposed development would involve the demolition of the existing building and, as the site is in a Conservation Area, it is important to consider the principle of the loss of the existing property. The existing building is a relatively modern bungalow that dates from the mid 20th Century and it is considered to provide little in the way of a positive contribution to the character and qualities of this area

of the Torquay Harbour Conservation Area. The Torquay Harbour Conservation Area Appraisal document does not identify it as a key building or building of architectural merit that makes a significant contribution to the townscape. Consequently the principle of demolition of the building is considered acceptable, subject to demolition taking place following completion of a contract for redevelopment.

The principle of apartments on the site is considered acceptable as it would reflect and sit comfortably with the predominant residential character of the area, which is a mix of large villas, hotels and apartments buildings.

The location is well suited for residential use, being highly sustainable set in a central location close to employment opportunities, social and recreational infrastructure, and transport links.

The principle of providing a larger building (and a greater number of units) on the site is generally supported in Saved Local Plan Policies and emerging Local Plan Policies, both of which seek to maximise the re-use of urban brownfield land, subject to other considerations.

2. Visual impact / including the impact upon adjacent listed buildings and the wider Torquay Harbour Conservation Area:

The proposal is on a prominent site and its affect on the Torquay Harbour Conservation Area and the two adjacent listed buildings that it sits between is a key consideration.

In regard to the design principles, this well designed modern building is considered the correct approach for the site that could bring greater interest to the locality over a pastiche approach.

In regard to the general scale the size of building proposed is considered acceptable. The existing bungalow is rather diminutive in terms of the prevailing scale aside the large villas, terrace blocks and apartment buildings in the locality.

The linear architectural form responds to the tiered approach used in the building lines which seek to relate it to the cliff-face context and harmonise the building with the natural step in levels as you progress up and back in to the site. Although this contrasts with the vertical emphasis of other buildings in the locality it is considered a more successful approach when recognising the topographical challenge presented by the land levels. The tiered approach and move towards a horizontal emphasis was championed by the Torbay DRP.

The materials provide a successful mix that when combined with design elements balance the provision of a modern statement building whilst limiting its visual prominence. The stone plinth grounds the building and the recent

introduction of stone throughout the sides helps soften the building and mask its massing. The use of smooth render as a base material for the three principal storeys relates with the predominant building form and emphasises a mass of building that relates well with the three storey development to either side. The dark grey cladding of the more diminutive upper two floors successfully define the area as roof elements and provide a modern finish to the building that gestures to the slate roofs of the adjacent Victorian buildings.

The changes to the materials to be used in the side elevations, which increase the use of stone and exclude render, have reduced the visual prominence of the building by helping to draw the building into the cliff face.

The redesign of the secondary access from the north, which removes the side extension and increases the gap between properties now provides an acceptable relationship with the adjacent listed building 57 Rock Road.

The present scheme has evolved from a similar iteration that was considered by officers and the Torbay Design Review Panel (DRP) in 2010 and again, through a Pre-Application submission by officers (as a response to the (DRP) comments), in 2013.

The initial Torbay DRP response looked to ensure a balance between natural and built environment, emphasising the value of the largely "green" vertical freeboard behind the building. The panel raised the possible advantages of a tiered approach in section and was not convinced that the vertical emphasis of the initial scheme was a success.

The revised proposal submitted is deemed by officers to be a well considered and successful response to the initial DRP comments from 2010 and acceptable in terms of its visual impact upon the Torquay Harbour Conservation Area and the setting of adjacent listed buildings.

3. Quality of the residential environment -

The proposal will provide 11 apartments, 10 are 2-bed apartments and the 11th apartment (the roof storey apartment) which is a 3-bed unit.

The scale of the units that are proposed is considered acceptable, as they appear to provide a suitable size of rooms and quality of habitable spaces. The internal floor area of the apartments accord with the dwelling size and floor space standards set out in the emerging Local Plan.

The internal arrangement is a good response to a steeply sloping site and provides key habitable space with good aspects and placing the requisite internal circulation/ access and egress, towards the rear of the building.

Outdoor amenity space is provided in the form of balconies or terraces. This

improves the quality of the habitable space for occupants. The absence of substantive garden space or communal outdoor space is not considered critical in such a central location as the character of town centre living often comes with limited personal outdoor space.

With consideration of the scale of units and the quality of the habitable space and broader living environment, the quality of the proposal in habitation terms is considered acceptable and compliant with Saved Local Plan policies and also emerging policies.

4. Impact upon local amenity -

The impact of the additional scale and mass of the proposed building and proposed windows and balconies within it has been considered, along with the raised concerns in regard to overlooking and overshadowing cited in representations.

To the south the building line will extend sideways to be position approximately 14m from the rear corner of Delmonte. The position of the building and the distance involved is considered to maintain the levels of amenity within acceptable parameters, with little loss of outlook, light or privacy.

To the north the building extends close to the joint boundary with 57 Rock Road, however the gap has been increased following recent changes to the scheme. The revised arrangement has overcome previous concerns and the extent of development is now considered to retain suitable levels of amenity when considering the present context and the natural rise in levels, which reduces the bulk of the building when judged experienced from the adjacent plot.

To the rear of the site the residential curtilages of Broadwater and 64&66 Warren Road. The relationship is a detached one due to the cliff face and the considerable rise in levels to these plots and buildings. The proposed building, to its highest point, raises the building height by 5.5m upon that which exists, which rises it to around the level of the lower tiered garden and around 5 metres below the ground floor level of Broadwater. Despite the additional vertical build involved the amenity of occupiers to the rear would remain within acceptable parameters with properties set some distance above and away from the proposed building and garden space also maintaining suitable levels of privacy.

The development is considered to retain suitable levels of residential amenity within adjacent plots.

5. Highway, movement and parking -

The proposal provides 1:1 parking within undercroft facility that also has a designated cycle parking area.

The Highway Department accept the amount of parking, in what is a central

location, and have advised that the arrangement provides a workable access in and out of the undercroft in terms of manoeuvrability.

The Authority's Sustainable Transport Officer has confirmed that the proposal should mitigate its impact and SPD monies should be sought in-line with adopted policy in order to improve cycle facilities in the area. Considering the move from a single dwelling to 11 apartments the level of traffic generated from the proposed development would clearly increase and therefore a sustainable transport contribution is justified in this case.

The proposal appears to provide some further improvement through the increased provision of parking for the occupants of Delmonte to the south.

In the context the proposal provides acceptable development in terms of the parking, movement and highway issues.

6. Land stability -

The proposal seeks to remove the existing building and extract a considerable amount of bedrock, in order to lower the proposed building and provide level access off the adjacent private road.

Land stability and the impact upon properties and curtilage retaining walls above the site off Warren Road have been cited within representations as a point of concern.

The submission includes a geotechnical report that outlines the likely ground conditions and the suitability of the site for the development.

The report concludes that the rock underlying the site is likely to be good and shallow foundations should be suitable. The competency of the limestone will possibly necessitate heavy plant or breakers to excavate. It summarises that there does not appear to be significant engineering constraints to the proposed developed, although intrusive investigations, once the building has been removed and full access is available, should confirm the assumptions and inform design.

The Council's engineers have reviewed the report and concluded that it appears competent and there is agreement with the conclusion that full access to the site should inform detailed design.

S106/CIL -

The application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). In addition, the application has been assessed against the adopted Council Report 'Third Party Contributions towards the South Devon Link Road', which seeks contributions towards funding the South Devon

Link Road (SDLR) where new development impacts on, or contributes to the need for the SDLR.

In this instance the provision of eleven residential units, with mitigation for the current unit, offers that contributions would be necessary. A calculation of the contribution, based on the type and size of development proposed and including the relevant mitigation, is provided below

Planning Contributions Summary:

Waste Management	£ 500.00
Sustainable Transport	£14,910.00
Lifelong Learning	£ 200.00
Greenspace & Recreation	£10,110.00
South Devon Link Road	£ 6,100.00
Total	£31,820.00
Administration charge (5%)	£ 1591.00
<u>Total with Admin Charge</u>	<u>£33,411.00</u>

The Agent has confirmed that the applicant is willing to enter in to a S106 legal agreement with the Authority to achieve the above mitigation.

Conclusions

The proposal is considered acceptable on planning merit due to the core considerations summarised below;

The demolition of the building is considered acceptable with the redevelopment.

The proposal is acceptable in design terms and will maintain or enhance the visual qualities of the Torquay Harbour Conservation and the setting of adjacent listed buildings.

Neighbouring amenity is retained at acceptable levels due to the arrangement of buildings and distances between them.

Suitable parking facilities are provided.

Land stability is not considered a constraint to development.

The applicant has confirmed agreement to pay the requisite level of planning obligations.

Condition(s)/Reason(s)

01. The building shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made.

Reason: To ensure that the character and appearance of the area is not prejudiced, in accordance with Policy BES and BE5 of the Saved Torbay Local Plan 1995-2011.

02. Prior to the extraction of sub-rock a detailed geotechnical investigation shall be undertaken by a suitably qualified profession to confirm the ground conditions and inform a detailed design of extraction. The subsequent report shall be submitted to and approved in writing by the Local Planning Permission prior to the commencement of any excavation. The development shall then proceed fully in accordance with the approved detail.

Reason: To protect the amenities of the area in accordance with EPS, EP4 and EP8 of the Saved Torbay Local Plan.

03. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:(1) the parking of vehicles of site operatives and visitors (2) loading and unloading of plant and materials (3) storage of plant and materials used in constructing the development (4) the erection and maintenance of security hoarding (6) measures to control the emission of dust and dirt during construction (7) a scheme for recycling/disposing of waste resulting from construction works.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on residential amenity and in the interests of the convenience of highway users, in accordance with the aims and objectives of Policies EPS, EP3 and EP4 of the Saved Torbay Local Plan.

04. Prior to the commencement of development details, to a scale no less than 1:10, shall be submitted in regard to the following;- Reveal detail to openings in the ground floor parking court- Reveal details to windows and doors within the habitable floors- Details of balustrade and glazing to terraces and balconies- Frame and cill details- Parapet and coping detail where utilised The development shall then proceed fully in accordance with the approved details.

Reason: To protect EH visual qualities of the area, in accordance with Policies BES, BE1 and BE5 of the Saved Torbay Local Plan.

05. Prior to the commencement of development details of the stone, cladding and roof material shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the visual amenities of the area, in accordance with Policies BES, BE1 and BE5 of the Saved Torbay Local Plan.

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

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

07. Prior to the commencement of development the integral bin stores shown on the approved plans shall be completed and made available for use. The waste storage facilities shall be retained as such for the life of the development, unless otherwise agreed in writing by the Local Planning Authority. Reason: In order to provide on-site waste storage facilities and in the interests of visual amenity, in accordance with Policies W7, BE1 and BE5 of the Torbay Local Plan 1995-2011.

08. The landscaping details hereby approved shall be implemented in full within the first available planting season following the practical completion of the external fabric of the development. Any trees or shrubs planted as part of the approved landscaping scheme, 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 to accord with policies L10, BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan 1995-2011.

09. The northern extent of the 5th floor roof terrace adjacent to 57 Rock Road shall at all times remain as approved. The area of terrace beyond the inner line of the approved planted bed shall at all times be accessed for maintenance purposes only.

Reason: To protect the amenity of adjacent occupiers, in accordance with Policies H9 and H15 of the Saved Torbay Local Plan.

Relevant Policies

BES	Built environment strategy
BE1	Design of new development
BE5	Policy in conservation areas
BE6	Development affecting listed buildings
HS	Housing Strategy
H9	Layout, and design and community aspects
LS	Landscape strategy
L10	Major development and landscaping
TS	Land use transportation strategy
T25	Car parking in new development
T26	Access from development onto the highway
W7	Development and waste recycling facilities
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
EPS	Environmental protection strategy
EP3	Control of pollution
EP4	Noise
NPPF	National Planning Policy Framework

Agenda Item 11

Spatial Planning (Strategic Planning and Implementation Team) Performance Report

Quarter 2, 2014/15 (01 July to 30 September 2014)

Exec Summary

This report provides information on the performance of the Strategic Planning & Implementation Team (Spatial Planning) in Quarter 2, 2014/15. It gives members of the Development Management Committee the opportunity to oversee performance against a number of indicators.

The Council's performance against the statutory function of determining planning applications and producing a local plan is vital to investment in the Bay. Investors look at, for example, the degree to which Members follow officer advice, the percentage of approvals on major applications and how quickly those decisions are made.

The Council continues to perform well against key indicators, which in turn helps support the Council's and Torbay Economic Development Company's economic recovery plans.

Headlines

The following areas of performance are highlighted given their importance in national measures of Local Planning Authority's; these indicate a strong and improving picture for Torbay in the national context:

60% of major planning applications (3 out of 5) were determined in time (either within 13 weeks or within the time agreed with the developer). The two 'out of time' applications were very old proposals, both of which were delayed considerably as the applicants failed to sign S106 agreements. Whilst this represents a slight reduction in performance (from 83% in the last quarter) it maintains the Council's performance well above the special measures threshold (40%).

100% of the appeals that were decided (3 no) in the period were dismissed. The Council continues to maintain a good performance at appeal, a key indicator of the quality of decision making. Two appeals were withdrawn, including the appeal by Taylor Wimpey against the Council's refusal of outline planning permission, for up to 175 new homes, on the Car Boot Sale site, Collaton St Mary.

73% of 'minor' and 'other' applications were determined within 8 weeks.

Performance against 8 week time period:

Officers have worked hard to improve performance against 8 week dates. This has been steadily improving over the past 9 months. Performance so far this period is at 72.4% for minor and 74.8% for other application types. This represents a significant improvement on performance for 2014 as a whole.

Performance

The following areas of performance are set out in this report:

- (1) Local and Neighbourhood Plans,
- (2) Planning appeal decisions,
- (3) Performance on Major planning applications,
- (4) Committee decisions and officer recommendations, and
- (5) Forthcoming (pipeline) projects.

1. Local and Neighbourhood Plans

The Council meeting on 17 July supported submission of the Local Plan. The Local Plan was submitted at the end of July, with a significant amount of supporting information and evidence.

A Programme Officer has been appointed by the Council. The Programme Officer is responsible for assisting the Examiner with all aspects of the examination administration. He is independent of the Council and works directly to the Inspector.

The Secretary of State has appointed Mr Keith Holland BA(Hon) DipTP MRTPI ARICS to conduct the examination into the compliance and soundness of the document. Keith Holland is one of the Planning Inspectorate's most senior inspectors.

The Hearing element of the Local Plan examination will start on Tuesday 18th November and is currently scheduled for 5 working days (not the 3 week period originally envisaged).

Informal feedback from the Planning Inspectorate, on the Local Plan, has been encouraging to date. For example, very few objections were made to the submission version Local Plan compared to other Local Authorities. However, there is no room for complacency and very thorough examination of the Duty to Cooperate, sustainability appraisal, Habitats Regulation Assessment, growth strategy (especially housing to meet objectively assessed needs) and infrastructure provision is anticipated.

Masterplans are being produced for Torquay and Paignton Town Centres, for Torquay Gateway and Collaton St Mary. These will not only illustrate delivery of the Local Plan, but will also inform or be included within Neighbourhood Plans. All four masterplans have been completed to final draft stage and will, during October, be the subject of formal public consultation. Council will then be asked, in February 2015, to adopt the two town centre masterplans as Supplementary Planning Documents (SPD) and the two other masterplans to be used for Development Management purposes until the new Local Plan is adopted, whereupon they too will become SPD.

2. Planning Appeal Decisions

Preparations are currently ongoing in relation to two Public Inquiries. These are the appeal by Tesco against the decision at Edginswell Business Park, scheduled for mid October, and recommencement of the appeal by Churston Golf Club, scheduled for early to mid November. Inquiries such as these take up a huge amount of officer time, which often has an impact on performance on major applications.

Taylor Wimpey has withdrawn from the appeal against the Council's refusal to grant outline planning permission for up to 175 new homes in Collaton St Mary. No reason was given by Taylor Wimpey, but it is expected that Taylor Wimpey will review the outcome of the ongoing masterplanning work in Collaton St Mary and submit a revised proposal based on the final masterplan.

Of the three appeals determined in Quarter 2, all three were dismissed. Two other appeals were withdrawn.

The following is a brief summary of the appeals. If Members require any greater detail on any specific appeal case, please contact the relevant case officer.

Appeals Dismissed (3)

P/2013/1369	Redstones Cockington Lane Torquay Devon TQ2 6XD	Conversion of existing store/potting shed and additions to form 2 bed holiday accommodation
P/2014/0010	Flat 5 190 Lymington Road Torquay Devon TQ1 4AR	First floor extension to rear to form kitchen/lounge on top of existing (resubmission of P/2013/1067)
P/2014/0359	Flat 5 190 Lymington Road Torquay Devon TQ1 4AR	First floor extension to form kitchen/lounge

Appeals withdrawn (2)

AT/2014/0069	Rawlyn House Rawlyn Road Torquay Devon TQ2 6PL	T1 Western Red Cedar (<i>Thuja plicata</i>) - Fell T2 Western Red Cedar (<i>Thuja plicata</i>) - Fell T3 Western Red Cedar (<i>Thuja plicata</i>) - Fell T4 Western Red Cedar (<i>Thuja plicata</i>) - Fell T5 Western Red Cedar (<i>Thuja plicata</i>) - Fell
P/2013/0572	Land Adjacent To The A385 Totnes Road Collaton St Mary Devon N/A	Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access.

3. Performance on Major Planning Applications

Determinations within 13 weeks

Councils are expected to determine at least 40% of major planning applications within 13 weeks. Quarter 1's performance on Major Planning Applications was 83 % determined in time (5 out of 6 major applications). Quarter 2's performance was 60% determined in time (3 out of 5 major applications), but two of decision related to quite old planning applications where S106 Agreements were awaited.

The overall performance on a rolling 2 year period (Sept 2012 to Sept 2014) is around 70%. This is not only well above the national indicator target, but substantially clear of the threshold for special measures, which is now set at 40%.

Approval rate for Major applications

Four (80%) of the five decisions, on major applications, made in Quarter 2 were approved. This maintains an approval rate on Major Planning Applications of around 80% over a rolling two year period.

4. Committee Decisions and Officer Recommendations

As has previously been reported decisions made at Development Management Committee are, in the majority of cases, consistent with the officer's recommendation (approx 95% over a 2 year period).

That consistency and strong working relationship with the Members has continued over the last quarter, where 16 out of 18 (89%) decisions have been made in accordance with the recommendation of officers. This demonstrates a strong consistency between the officers and the members of the committee in making planning decisions.

This level of consistency in decision making provides applicants with a high level of certainty that the eventual decision will be likely to tally with the advice they have received through the negotiation process.

5. Forthcoming (pipeline) projects

The following is a list of forthcoming Major projects and their current status:

Site Address	Summary proposal	Target DMC
Pavillion, Torquay	Hotel, Flats, Car Parking	Nov / Dec 2014
Torwood Street	Hotel, Offices, Commercial	Dec 2014
Bookhams / Nortel	Residential, offices, commercial	Jan 2015
Sharkham Village	31 Dwellings	App awaited
Jackson Land, Yalberton	Business space and homes	App awaited
Gleneagles Hotel	Redevelopment as retirement homes	App awaited

Conclusion

The Strategic Planning & Implementation team remains successful and performs well in relation to key indicators. In addition, the Council continues to perform well at appeal and the relationship between officer advice and the decisions of the committee are consistently in line with one another.

However, the changes to the thresholds for assessing performance mean that the Council needs to maintain and, if possible, improve its performance. There is no room for complacency. The impact of appeals on planning application performance should not be underestimated.