



Friday, 4 December 2015

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 14 December 2015

commencing at **2.00 pm**

The meeting will be held in the Grace Murrell Suite, Riviera International Conference Centre, Chestnut Drive, Torquay

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor Cunningham
Councillor Darling (S)
Councillor Manning

Councillor Morey
Councillor Robson
Councillor Stringer
Councillor Winfield

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

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www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 5 - 7)
To confirm as a correct record the Minutes of the meeting of this Committee held on
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. **Silverlawns Nursing Home, 31 Totnes Road, Paignton** (Pages 8 - 19)
P/2015/0908/MPA
Partial demolition of main building, extension to and conversion of main building to form 11 residential units, conversion and raising of roof of outbuilding to south western corner of site to form 3 residential units and erection of new building to south eastern corner of site to form 4 residential units to include new vehicular access on to Midvale Road and lane to south of site, parking provision for 18 cars and landscaping scheme.

6. **Land South Of Yalberton Road, (Yannon's Farm), Paignton P/2014/0983/MOA** (Pages 20 - 47)
Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only), (Revised Scheme), (THIS IS A DEPARTURE FROM THE ADOPTED TORBAY LOCAL PLAN 1995-2011).
7. **1 Southfield Road, Paignton P/2015/0840/MPA** (Pages 48 - 64)
Erection of 4 storey block of flats comprising 12 no. 2-bed flats, with associated pedestrian/vehicular access and parking.
8. **Brookfield House, Brookfield Close, Paignton P/2015/0927/R3** (Pages 65 - 71)
Construction of multi-use games area, car park, playground and formation of access adjacent to Torbay School on site of Brookfield House, Paignton.
9. **Land West Of Brixham Road, Paignton V/2015/0004/V** (Pages 72 - 76)
Variation of S106 for P/2011/0197 - Alignment of woodland walk.
10. **101 Braddons Hill Road East, Torquay P/2015/0897/VC** (Pages 77 - 80)
Demolition of existing warehouse, and construction of 9 two storey dwellings with 9 car parking spaces. Variation of conditions 1 and 3 of planning approval P/2015/0320 to allow more extensive demolition of stone boundary wall fronting Museum Road to create vehicular and pedestrian access.
11. **Spa View, Lower Warberry Road, Torquay P/2015/0983/MPA** (Pages 81 - 87)
Erection of a building of 9 apartments with parking (revised scheme).
12. **The Anchorage, Headland Road, Torquay P/2015/0986/PA** (Pages 88 - 94)
Formulation of dwelling.
13. **4 - 24, Torwood Street, Wellswood, Torquay P/2015/1108/MVC** (Pages 95 - 101)
Variation of conditions P1, 4 and 22 regarding P/2014/0965 - Condition P1 plans, Condition 4 Floor Levels and Condition 22 materials. Proposal includes a 'pop up' on the roof to conceal lift over runs, duct work and to provide safe access for maintenance. Gross external area of ground floor to be increased from 1,713 sqm to 1612 sqm.
14. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
15. **Enforcement Action** (Pages 102 - 104)
To determine whether to proceed with enforcement action.

16. Public speaking

If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.

17. Site visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 9 December 2015. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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



Minutes of the Development Management Committee

9 November 2015

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Darling (S), Morey, Robson, Stringer, Winfield, Tolchard and Thomas (D)

(Also in attendance: Councillor Sykes)

41. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Thomas (D) instead of Councillor Manning.

42. Minutes

The Minutes of the meeting of the Development Management Committee held on 12 October 2015 were confirmed as a correct record and signed by the Chairman.

43. Hill House Nursing Home, Park Avenue, Brixham (P/2015/0038/PA)

The Committee considered an application for proposed outbuildings to house biomass boiler and fuel store (revised plans received).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting the Team Leader for Development Management read out a late representation. Nick Meyer addressed the Committee in support of the application.

Resolved:

Approved subject to the final drafting and determination of appropriate planning conditions and informative, as set out in the submitted report, being delegated to the Executive Director of Operations and Finance, plus the imposition of additional conditions in respect of wall materials/colour and appropriate screening planting.

44. Landscope Holiday Village, Gillard Road, Brixham (P/2015/0791/MVC)

The Committee considered an application for removal of Condition 01 of P/2009/0452/PA (use of land for the stationing of additional 101 static holiday caravans for occupation between 16 February and 14 January in any year,

installation of public footpath and ancillary operations)-Condition 01- No caravan or chalet on the site shall be occupied between 15 January and 15 February in any one year.

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

Resolved:

Approved, subject to the completion of a deed of variation to link Section 106 Agreement contributions in respect of the original grant of planning permission (P/2009/0452) to this application, and the deed of variation to be completed within 3 months of the date of this Committee. The conditions to reflect those added to P/2009/0452, plus an additional condition requesting the applicant to submit annually the visitor log to monitor occupation on the site.

45. The Cottage, Windmill Lane, Paignton (P/2015/0755/PA)

The Committee considered an application for the provision of two new 3 bedroom dwellings with garages and associated works.

Prior to the meeting, written representations were circulated to members. At the meeting Jennifer Clark addressed the Committee against the application, Nigel Bennetto addressed the Committee in support of the application and Councillor Sykes addressed the Committee as Ward Councillor.

Resolved:

Approved, subject to:

- (i) substitution of two dormer windows on the main roof of plot 2 with two velux windows;
- (ii) the conditions set out in the submitted report;
- (iii) additional conditions relating to soakaways and archaeological matters; and
- (iv) the completion of a Section 106 Agreement or payment by unilateral undertaking within three months of the date of this Committee.

46. Gleneagles Hotel, Asheldon Road, Torquay (P/2015/0836/MPA)

The Committee considered an application for demolition and redevelopment to form 32 retirement apartments for the elderly including communal facilities, access, car parking and landscaping (revision of P/2017/1062).

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

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement to secure appropriate contributions within three months of the date of the Committee or the application be reconsidered in full by the Committee, with the delegated powers to the Director of Operations and Finance, in agreement with the Chairman and Vice-Chairman of the Committee to:
 - (a) review the level of the Section 106 contribution and negotiate an improved level of contribution, subject to a minimum contribution of £100,000; and
 - (b) to increase the number of off street parking spaces; and
- (ii) the imposition of the conditions set out in the submitted report and the Executive Director of Operations and Finance being authorised to undertake final drafting and determination of appropriate planning conditions.

47. Spatial Planning Performance Report October 2015

The Committee noted the spatial planning performance report.

Chairman

Agenda Item 5

Application Number

P/2015/0908

Site Address

Silverlawns Nursing Home
31 Totnes Road
Paignton
Devon
TQ4 5LA

Case Officer

Carly Perkins

Ward

Roundham With Hyde

Description

Partial demolition of main building, extension to and conversion of main building to form 11 residential units, conversion and raising of roof of outbuilding to south western corner of site to form 3 residential units and erection of new building to south eastern corner of site to form 4 residential units to include new vehicular access on to Midvale Road and lane to south of site, parking provision for 18 cars and landscaping scheme.

Executive Summary/Key Outcomes:

The application site was occupied by a nursing home, but the buildings have since fallen into a derelict state following a fire. The building is located on the junction of Totnes Road and Midvale Road and vehicular access to the site is via Totnes Road with a secondary point of access from a private lane off Midvale Road. The building is identified as a key building within the Old Paignton Conservation Area. The Old Paignton Conservation Area Appraisal states that the building has preserved much of its late Victorian/Edwardian character. The red sandstone, glass porch-verandah, pantiles with full cresting and finials to all gables and tall brick chimneys are noted as pleasing features of the building whilst the rear extensions linking the main block to the original outbuildings are of a lesser quality.

The proposals consist of the partial demolition and repair of the original building to include extensions and the conversion of the building to form 11 residential unit, the raising of the roof of the existing outbuilding to the south western corner of the site to form 3 residential units and the erection of a new building to the south eastern corner of the site to form 4 residential units. Vehicular access is proposed via Totnes Road, Midvale Road and a private lane off Midvale Road.

The change of use of this former Care Home to provide new dwellings is acceptable and compliant with both local and national policy. The proposal will result in the regeneration of the currently derelict site to the benefit of the key

building and wider conservation area. The proposed landscaping scheme is considered acceptable and the proposed recommendations of the ecological survey can be secured to ensure there is no detrimental impact to biodiversity. The level of parking is considered acceptable in light of the location of the site and the impact of the development to highway and pedestrian safety is not considered severe and as such would not warrant the refusal of the application.

Recommendation:

Conditional approval subject to the submission of revised surface water drainage details; the completion of a section 106 agreement to secure financial contributions and affordable housing provision and the completion of a section 278 agreement to secure necessary works to the highway. Conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period:

8 weeks, the determination date is the 22nd December 2015.

Site Details:

The application site was occupied by a nursing home, but the buildings have since fallen into a derelict state following a fire. The building is located on the junction of Totnes Road and Midvale Road and vehicular access to the site is via Totnes Road and a private lane off Midvale Road. The building is identified as a key building within the Old Paignton Conservation Area. The Old Paignton Conservation Area Appraisal states that the building has preserved much of its late Victorian/Edwardian character. The red sandstone, glass porch-verandah, pantiles with full cresting and finials to all gables and tall brick chimneys are noted as pleasing features of the building whilst the rear extensions linking the main block to the original outbuildings are of a lesser quality.

The site is noted within the New Torbay Local Plan 2012-2030 as a potential housing development site for consideration in the Neighbourhood Development Plan. The site is also located within Flood Zone 1 within the Critical Drainage Area.

Detailed Proposals:

The proposals consist of the partial demolition and repair of the original building to include extensions and the conversion of the building to form 11 residential unit, the raising of the roof of the existing outbuilding to the south western corner of the site to form 3 residential units and the erection of a new building to the south eastern corner of the site to form 4 residential units.

The proposals are to be accessed utilising an existing vehicular access from Totnes Road, an existing access from a private lane off Midvale Road and a new access from Midvale Road utilising an existing gap in the sandstone and brick wall. 18 parking spaces are proposed, 1 parking space per unit together with cycle storage and bin storage.

The proposal includes a full landscaping scheme together with an implementation and maintenance scheme.

Summary Of Consultation Responses:

Historic England: This is a redevelopment scheme for a site within Old Paignton Conservation Area which contains a building of some historic and architectural merit that has clearly been left in a dilapidated state after significant fire damage. Whilst the site is not within the historic heart of the Conservation Area, it is a prominent one within an area of late nineteenth expansion to the original town, and the building it contains was an interesting and attractive example of its type.

The scheme to redevelop it appears to be a reasonably sympathetic response to the character of the site and its surrounding area. The form of the reconstructed and extended building pays respect to its original form and is not incongruous in relation to the retained elements, whilst not appearing as a pastiche. The success of the design will depend on the quality of the materials, detailing and construction, which may require careful addition of conditions to any planning consent granted.

Given the prominence of the new block on the street scene, its design does not appear particularly well related to its position on the plot or in the wider Conservation Area. Areas of concern include its block like massing of the building and its lack of articulation in terms of overall roof form, detailing and materials. Whilst this may be driven by the economics of the site it is somewhat disappointing given the care with which the extensions to the main building have been designed and therefore it is considered capable of improvement.

It is recommended that the above issues are addressed and the application determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Senior Historic Environment Officer: Following revisions to the scheme including the omission of the rooflight, repositioning of the bin store, revisions to the window schedule and retention of surviving decorative joinery elements of the porch, the proposal is considered acceptable.

Senior Design and Heritage Officer: In response to comments from Historic England, the new building is supposed to emulate a coach house type

development which would be typical although not as large. The design is a contemporary take on this building type, whilst not to the Senior Design and Heritage Officer's taste it is the sort of building that would do the least harm to secure the future of the main building and wider site.

Green Infrastructure Co-ordinator: Subject to conditions relating to the implementation of the recommendations of the ecological survey, the proposal is considered acceptable in terms of biodiversity. Financial contributions should be sought to allow improvement of existing facilities in the vicinity of the site.

Arboricultural Officer: The scheme is suitable in principle for approval on arboricultural merit subject to the findings of the tree report are enacted in their entirety as a planning condition, a landscape maintenance plan is produced covering a duration of at least 5 years and a revised specification to include a cedrus deodore and two acer griseum being submitted.

Environment Agency: The site is in Flood Zone 1 and the Critical Drainage Area and should be dealt with via the standing advice provided to the Council.

South West Water: No objection.

Drainage Engineer: The sustainable urban drainage system has been under-designed and therefore flooding is likely to occur. In order to identify the correct infiltration rates to be used in the design the infiltration testing must be carried out in accordance with BRE 365. Further information is required prior to the determination of the application.

Senior Strategy and Project Officer: The application is a highly sustainable redevelopment close to the town centre. The car parking is 1 space per dwelling, which is slightly less than the requirement in the emerging Local Plan 2012-2030, but meets the requirement of the Adopted Local Plan 1995-2011. It is noted that the spaces served from the unadopted lane are quite tight and in practice it may be possible to park fewer than five cars here, however given the location, it would be appropriate to accept slight reduced parking provision. At least one space on either of the main car parks should meet disability standards and two spaces should have electrical charging points. Cycle parking should be covered and secure. The creation of an access on to Midvale Road and the removal of a bollard and relocation of the street light will require a Section 278 agreement. A sustainable transport contribution would be appropriate to support sustainable transport provision in the town centre. The proposal increases the coverage of the site by permeable paving, which is welcomed. In order to ensure that the proposal complies with policies ER1, ER2 and W5 of the emerging Local Plan 2012-2030 to reduce water run-off this should be conditioned.

Police Architectural Liaison Officer: Advice and recommendations to design our crime, antisocial behaviour and conflict provided.

Summary Of Representations:

4 representations have been received. Issues raised:

- Impact on pedestrian safety as a result of increased usage of private lane off Midvale Road
- Concerns regarding the rebuilding of the damaged wall

These representations have been sent to Members for consideration.

Relevant Planning History:

P/2006/0319	Alterations and change of use to form 21 sheltered residential flats (as revised by plans received 13th June 2006 APPROVED 30.08.2006
P/1990/0082	Alterations and extension to form C2 residential institution nursing home for 30 residents APPROVED 30.04.1990
P/1989/1758	Alterations and extension to form C2 residential institution nursing home for 30 residents APPROVED 06.12.1989
P/1988/1273	Erection of 6 sheltered flats to be run in conjunction with approved residential home REFUSED 30.09.1988
P/1988/1098	Removal of existing building and erection of sheltered accommodation (in outline) REFUSED 30.09.1988
P/1988/1097	Demolition of existing buildings REFUSED 30.09.1988
P/1987/1788	Use as an elderly persons home APPROVED 18.12.1987
P/1987/1635	Use of ground floor flat as office accommodation APPROVED 30.10.1987
P/1981/0151	Alterations and extension to office accommodation APPROVED 18.03.1981

Key Issues/Material Considerations:

The relevant considerations are the principle of the partial demolition of the building and extension and conversion to residential accommodation, the impact of the proposals on residential amenity, highways, drainage, biodiversity, trees and the impact of the proposals on the character and appearance of the conservation area.

Principle of residential accommodation:

The application site is within the urban residential area of Paignton and noted within the New Torbay Local Plan 2012-2030 as a potential housing development site for consideration in the Neighbourhood Development Plan. Policy H1 of the New Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas and elsewhere within the built environment will be supported subject to consistency with other policies within the plan. Policy H6 of the New Local Plan states that proposals involving the loss of existing care accommodation will be supported where they are not needed, or does not represent the most appropriate way of delivering care and where such a change of use is agreed, the creation of family homes or employment space will be encouraged. In this instance the site has been vacant some time and has since become derelict due to fire damage. The loss of the nursing home is not considered detrimental to the overall stock of similar accommodation within Torbay and its replacement with residential accommodation with a good standard of amenity is considered acceptable and in accordance with policy H6. In line with policy H1 and H6 the principle of residential accommodation on this site is considered acceptable.

Impact on the conservation area:

Paragraph 131 of the National Planning Policy Framework states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness. At a local level, policy SS10 of the Torbay Local Plan 2012-2030 states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make an important contribution to Torbay's built, natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay.

The Old Paignton Conservation Area Appraisal describes the building as a villa which has preserved much of its late Victorian/Edwardian character. The pleasing features of the site are noted as the red sandstone, glass porch-verandah, pantiles with full cresting and finials to all gables and tall brick chimneys whilst the rear extensions linking the main block to the original outbuildings are of a lesser quality. The building has, when in use as a residential home, been subject to unsympathetic alterations namely the rear extensions to the main building. The damage to the building as a result of the fire has resulted in an opportunity to retain the important aspects of the building which are structurally sound and remove those elements which are unsympathetic to the character of the historic building and wider site.

Whilst the site is not within the historic heart of the Conservation Area, it is a prominent one within the area due to its position, distinctive design and scale. This is evident through its designation as a key building within the Conservation Area Character Appraisal. The proposal to redevelop the building includes significant demolition, extension and alteration however it is considered a sympathetic solution which remains in keeping with its original form without appearing as a pastiche. The retention of those pleasing elements of the main building together with the form of the extensions and replacement windows which respect the historic character of the original building preserve the appearance and character of the building whilst having a positive contribution to the wider appearance of the site bringing it back into use and restoring it to its former pleasing state. The works to the main building are considered to preserve its character and appearance in accordance with policy SS10 of the New Torbay Local Plan.

The works to the existing outbuilding include an increase to the roof height by a maximum of 450mm, the inclusion of windows and conservation roof lights. The proposals are considered sympathetic to the overall form and character of the existing building whilst retaining its role as a subservient service building to the main house. The works are considered to preserve the character and appearance of the existing building and wider site in accordance with policy SS10 of the New Torbay Local Plan.

The new building to the south eastern corner of the site is prominently sited being visible in views along Midvale Road. The comments from Historic England are noted and whilst there may be other proposals that could represent an alternative solution the current scheme is considered an appropriate way forward which facilitates the redevelopment and restoration of a currently derelict site. The proposal includes an additional three residential units reflecting elements of the existing buildings on site in a contemporary manner that remains subservient to the main building in the same way as the original outbuilding. Whilst a contemporary reflection of the existing outbuilding, the materials and roof design adopted echo those present on the original outbuilding helping it to assimilate into the wider site. Whilst this part of the proposal is considered to be an appropriate solution, it is recognised that its prominent location in a previously undeveloped area, will result in an element of harm to the significance of the designated heritage asset (the Conservation Area). The harm caused is considered to be less than substantial however. In line with paragraph 134 of the National Planning Policy Framework where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum use.

With regard to whether there is any public benefit as a result of the proposal, it is accepted that the provision of three new dwellings would be likely to deliver some economic and social benefits however alone this would not be considered to

outweigh the harm identified. However in line with the Senior Design and Heritage Officer's comments, the scheme is considered suitable for approval as it will facilitate the wider regeneration of the site and the reuse and restoration of a key building within the Conservation Area allowing positive enhancement of site within the wider street scene. The regeneration of the site offers wider social, economic and environmental benefits through the provision of eighteen dwellings of a good standard of amenity and the wider enhancement of the site through the restoration of the site together with good quality landscaping. The viability of the development is dependent on the provision of an additional residential block, the wider redevelopment of the site would include the positive enhancement of the site and conservation gains and therefore it is considered that the works accord with paragraph 134 of the National Planning Policy Framework.

In line with comments from Historic England, this recommendation of approval is subject to several conditions relating to the submission of material samples.

Impact on highway safety and parking provision:

The proposal provides for 1:1 car parking with 13 spaces to the front of the building and 5 to the rear. The Council's Strategy and Project Officer and Highways Engineer have not raised any objections to the scheme and subject to 20% of spaces having electrical charging facilities and up to 10% of the spaces being suitable for people with disabilities the provision is compliant with policy guidance within Appendix G of the New Torbay Local Plan 2012-2030. Whilst it is noted that no provision has been provided for visitor parking, in light of the location of the site close to the town centre, public transport opportunities and public car parks this is not considered detrimental nor to warrant the refusal of the application.

Representations regarding to the impact of the development on highway and pedestrian safety as result of the intensified use of the access via the private lane on to Midvale Road are noted. Paragraph 32 of the National Planning Policy Framework states that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. In this instance the lane is already used by other buildings located on the lane such as the doctors' surgery and as part of the previous use of the site this access could and was likely to have utilised albeit to a lesser extent. The distance from the access to Midvale Road is short and vehicles that use it are likely to be travelling at low speeds due to its narrow width and stone walls that bound the site. In light of this and on balance, it is considered that highway and pedestrian safety is unlikely to be compromised by addition of this intensified parking area nor is it considered to result in a severe impact that would warrant the refusal of the application.

Impact on residential amenity:

The proposals are separated from neighbouring sites to the south, north and east by the private lane, Totnes Road and Midvale Road respectively. The impact to those properties to the north and east is considered limited due to the scale of the roads separating them. The properties to the south and west are closer to the proposal however due to the design of those elements of the scheme alongside these boundaries with roof designs that slope up and away from the shared boundaries and the lesser heights of these service style buildings in comparison to the principle building the impact is lessened. Having considered the position and scale of the existing buildings on site, together with the orientation of the proposals in relation to those surrounding and the design of the proposals, on balance they are not considered to result in serious detriment to the amenities of neighbouring occupiers. As above due to the distance separating the proposals from residential dwellings to the north and east, the proposals are not considered to result in any serious detriment to residential amenity by reason of loss of privacy. Again those to the west and south are within closer proximity. The windows to the south of the new block would provide views largely on to the areas of the neighbouring building and site visible from public land. The building to the south is a community building rather than a residential block and whilst some overlooking is likely this is not considered to result in serious detriment to the workings of this building or its occupants. In addition it is noted that due to the position of the existing buildings on site a level of overlooking was already apparent and as such on balance it is considered that the proposal would not result in any significantly greater impact in terms of overlooking. In terms of overlooking to the west, the roof lights to the existing outbuilding due to their position on the boundary is likely to result in a detriment to the occupiers of the neighbouring property to the west and as such it is considered necessary to include a condition that these roof lights are obscure glazed. Windows facing west within the main building are considered to be a sufficient distance from the boundary to prevent direct overlooking into garden areas associated with the neighbouring dwelling to the west. In line with the above, the proposal is considered acceptable in terms of its impact on residential amenity and compliant with policy DE3 of the New Torbay Local Plan.

Standard of residential accommodation:

The supporting text to policy DE3 of the New Torbay Local Plan seeks to achieve a minimum size for dwellings and gardens and better designed homes. The unit sizes are broadly consistent with the suggested standards as is the amount of communal garden space. Units 13 and 14 fall slightly below these standards as they offer two bedroom accommodation rather than one bedroom. Whilst this is not ideal, both units will be served by natural light and offer additional storage space. A better situation could be achieved if these units were only to accommodate one bedroom however it is noted that this could be achieved by the future occupiers if required. On balance in light of positive benefits of the

regeneration proposals together with the quality of the internal and external space associated with each of the unit the proposals are considered acceptable in terms of the standard of residential accommodation. The units are all acceptable in terms of outlook, amenity and design and are considered compliant with the relevant paragraphs of the National Planning Policy Framework which refer to creating good quality living environments and policy DE3 of the New Local Plan.

Impact on trees:

The application site includes a number of trees which are protected due to their position within the Old Paignton Conservation Area. The scheme has been revised in line with the comments from the Council's Arboricultural Officer and is acceptable in terms of the landscaping proposals.

Impact on biodiversity:

The ecological survey states that the building has limited potential for roosting bats and nesting birds but there is suitable habitat within the grounds. The presence of slow worms and foxes were also noted. Suitable mitigation has been included within the recommendations of the report and in line with comments from the Green Infrastructure Co-ordinator a conditions is recommended to ensure such recommendations are carried out in full. Subject to these recommendations being secured the scheme is considered acceptable and compliant with policy NC1 of the New Torbay Local Plan.

Impact on drainage:

The application site is within the Critical Drainage Area as designated by the Environment Agency. The applicant has indicated that surface water from the development will be drained to via soakaways. The submitted infiltration testing is not sufficient further testing is required. This information is expected and the recommendation of approval is subject to the acceptability of these details.

S106/CIL -

The Adopted SPD 'Planning Contributions and Affordable Housing' would have required a contribution of £56,563.00 to meet the impact of the development on local infrastructure. The existing use of the site as a nursing home will offer some mitigation in terms of sustainable transport contributions however site acceptability matters in relation to the vehicle cross over and relocation of the bollards and street light will require a section 278 agreement.

The affordable housing contribution for this scheme would be 15% of the proposed dwellings in line with policy H2 of the New Torbay Local Plan for brownfield sites. This results in a requirement for 3 dwellings to be affordable.

A viability assessment is being carried out for the development and the outcome of this in terms of the level of financial contributions and affordable housing required from the development will be provided at the Development Management Committee meeting.

Conclusions

The change of use of this former Care Home to provide new dwellings is acceptable and compliant with both local and national policy. The proposal will result in the regeneration of the currently derelict site to the benefit of the key building and wider conservation area. The proposed landscaping scheme is considered acceptable and the proposed recommendations of the ecological survey can be secured to ensure there is no detrimental impact to biodiversity. The level of parking is considered acceptable in light of the location of the site and the impact of the development to highway and pedestrian safety is not considered severe and as such would not warrant the refusal of the application.

Condition(s)/Reason(s)

01. Submission of Materials
02. Submission of schedule of works/phasing agreement for implementation of works
03. Implementation of landscaping scheme
04. Tree protection measures
05. Provision of bins, electrical charging points and bike storage
06. Provision and retention of parking
07. Implementation of ecological recommendations
08. Removal of permitted development rights
09. Implementation of surface water drainage details
10. Provision of permeable paving
11. Obscure glazing of west facing roof lights to existing outbuilding
12. No use of flat roof to existing outbuilding as an outdoor amenity area

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

SS81 - Conservation and historic environment

H2LFS - Affordable Housing_

ER1 - Flood Risk

NC1LFS - Biodiversity and Geodiversity

TA1 - Transport and accessibility

TA3 - Parking requirements

H1LFS - Applications for new homes

SS8 - Natural Environment

H6LFS - Housing for people in need of care

Agenda Item 6

Application Number

P/2014/0983

Site Address

Land South Of Yalberton Road
(Yannon's Farm)
Paignton
Torbay

Case Officer

Matt Diamond

Ward

Description

Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme) (THIS IS A DEPARTURE FROM THE ADOPTED TORBAY LOCAL PLAN 1995-2011)

Executive Summary/Key Outcomes

The application has been submitted in outline with all matters reserved except access. It proposes the development of the remainder of the employment allocation (Policy E1.16(c)) in the Adopted Torbay Local Plan 1995-2011 ('the current Local Plan'), including land allocated for strategic landscaping and part of the Countryside Zone/Area of Great Landscape Value (AGLV) to the west. This land is allocated as a Future Growth Area in the emerging Torbay Local Plan - A landscape for success 2012-2030 ('the new Local Plan'), except for a field to the south of the site which is allocated as Countryside Zone.

The application site comprises two parcels of land. The main site to the west adjoining Yalberton Road is 10.16ha in area, while the smaller site to the east between Torbay Pharmaceuticals and Yannons Farm local centre is 1.31ha. The total site area is 11.47ha. The proposals are to develop up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with ecological mitigation, public open space and other associated infrastructure. The site excludes part of the field within the Countryside Zone, which is proposed as a 'high meadow' for ecological mitigation - this will be used to partly compensate the loss of cirl bunting habitat on the site. The Council issued an EIA screening opinion in December 2014 concluding the proposal is not EIA development.

The revised illustrative masterplan submitted with the application indicates that the smaller site shall be used wholly for employment development, while the main site to the west shall comprise employment development to the north adjoining Yalberton Road with residential development to the south. Access to

the main site will be provided via a new roundabout on Yalberton Road at the junction with Alders Way, while access to the east site will be provided via a new access road on Wilkins Drive. Yalberton Road will be widened to provide a 6.5 metre carriageway along the frontage of the Western Power station site and a shared footpath/cycleway to the proposed Brixham Road Western Corridor highway improvement works at the Brixham Road/Yalberton Road junction, which are scheduled for autumn 2016. In addition, a secondary emergency access shall be provided to the main site further along Yalberton Road to the west. A link to the adjoining Yannons Farm development site shall be secured in the s106 agreement, which will need to provide access for public transport, pedestrians and cyclists.

The principle of the proposed development for a mix of housing and employment is considered to be acceptable by officers and in accordance with the provisions of the current and new Local Plans, taking material considerations into account. It will deliver up to 192 dwellings, helping to maintain a 5 year housing land supply and a significant amount of employment development generating a large number of jobs; it will also contribute to upgrading the Brixham Road/Yalberton Road junction. However, a condition is necessary to ensure that the layout of housing at reserved matters stage will not prejudice the future reuse of the allocated waste site at Yalberton Tor Quarry as a waste management facility, which Strategic Planning officers have confirmed must be retained in accordance with Policy W3 (current and new Local Plans).

At the time of writing this report the final comments of the Local Highway Authority are awaited to confirm that the proposed access arrangements are safe and deliverable, and will not have a severe impact on the local highway network, including the capacity of the Brixham Road/Yalberton Road junction. Initial indications are that the principle of the access arrangements along Yalberton Road is acceptable, subject to the proposed highway improvement works being carried out, but the proposed fallback option proposed is unacceptable, due to safety concerns with the proposed pedestrian crossing on Yalberton Road adjacent to the Sainsburys petrol filling station. An update will be provided by officers at committee. A shortfall in funding to deliver the highway improvement works, to the junction of Brixham and Yalberton Roads, will need to be paid for by the developers and secured in the s106, together with other s278 funding for highway works along Yalberton Road outside the site boundary.

Insufficient information has been submitted to enable the Council to carry out a Habitats Regulations Screening Assessment of the proposed development, however further information is being prepared and is expected to be submitted by the applicants shortly. The Council's external ecological adviser on the South Hams SAC has been working with the applicants' ecologists to ensure that this information is satisfactory. If a Habitats Regulations Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers will recommend the application be deferred to provide more

time to resolve these matters. A detailed bird bunting mitigation/compensation strategy is also required before planning permission is granted. The RSPB currently object to the application, due to inadequate information in this regard. It is understood that a strategy is being prepared by the applicants' ecologists to provide compensation on the field to the south of the site and other offsite land at Cockington and off Long Road. An update will be provided by officers at committee.

Despite concerns raised by local residents, the drainage proposals (foul and surface water) are considered to be acceptable for approval at this stage, subject to conditions. This has been agreed by South West Water and the Engineering department - on behalf of the Council as Lead Local Flood Authority. However, Engineering officers have requested details of an offsite surface water drainage connection in case it is not possible to infiltrate all of the surface water run-off from the site, prior to determination. This information will be sought from the applicants prior to committee.

The applicants propose to deliver the policy compliant level of affordable housing (30%), but have requested flexibility on tenure mix. This will need to be agreed by the Head of Asset Management and Housing, while the s106 is drafted. Together with the site acceptability matters discussed above, the s106 will need to secure sustainable development contributions towards local infrastructure, including schools and Paignton Library. Precise figures cannot be calculated at this stage, as the application is in outline, but the total contribution is estimated to be approximately £800k.

Officers recommend approval of the revised application, subject to the successful resolution of the technical issues above. The principle of developing the site for housing and employment use accords with the Future Growth Area in the new Local Plan and will go a long way in helping to meet local housing needs and economic growth. Whilst officers will provide Members with a full update at committee, should any technical matters remain outstanding, officers will seek Members' approval to delegate these to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee for full reconsideration. The only exception to this is if a Habitats Regulations Assessment has not been carried out, or an Appropriate Assessment is required, in which case officers will recommend deferral. In effect, Members will be asked to approve the application in principle; however, Members could also decide to defer the application or refuse it if they consider it does not fulfill the policy objectives of the new Local Plan.

Recommendation

Conditional approval; subject to the successful resolution of technical issues relating to access arrangements, ecology mitigation/compensation and s106 legal agreement relating to timing of provision of employment development, timing of highway improvement works and occupation, secure 30% affordable

housing, including up to 5% self build plots, and necessary contributions within 3 months of the date of this committee or the application be reconsidered in full by the committee; conditions listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

NB. If a Habitats Regulations Screening Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

Statutory Determination Period

The application was validated on 03.12.2014. The statutory determination date was 05.03.2015 (13 weeks), but an extension of time is currently agreed to 15.12.2015.

Site Details

The site comprises two parcels of land adjacent to the Yannons Farm development site to the west of Brixham Road on the outskirts of Paignton. The larger parcel of land to the west is 10.16ha in area, while the smaller parcel of land to the east is 1.31ha. The total site area is therefore 11.47ha. The majority of the site is located within the Future Growth Area of the new Local Plan, except for the south part of the main site to the west.

Both parcels of land comprise agricultural fields bounded by hedgerows. The west site includes an important group of remnant elm trees and a derelict stone barn. In addition, overhead power lines cross the west site to the north. Both sites have sloping topographies. The west site has a north facing slope that rises by about 50 metres to a high point near the top of the hill to the southeast. However, the west site excludes a large part of the field near the top of the hill, which is proposed as a 'high meadow for ecological mitigation and biodiversity'. A footpath is proposed around the meadow and the high point is within this strip of land. The bulk of the west site rises by about 35 metres to a point further down the slope. The topography is steeper to the west, with a gradient of about 1:7. In comparison, the east site has a consistent slope of 1:12, rising 13.5 metres north to south.

The main site to the west is bounded by Yalberton Road to the north, the Western Power electricity station and Yannons Farm development site to the east, agricultural fields to the south (beyond which is South Devon College), and open countryside to the west. To the north of Yalberton Road is Yalberton Tor Quarry, which is allocated as a waste site in the new Local Plan, and the Rodgers/Yalberton industrial estates.

The smaller site to the east is bounded by Sainsburys car park to the north, Yannons Local Centre and residential properties to the east, Wilkins Drive (with

newly constructed housing beyond) to the south, and Torbay Pharmaceuticals to the west. This site has an existing access to the north via a right of way to the rear of Sainsburys, which leads to Yalberton Road.

The east site and a large area of the west site are allocated for employment development in the current Adopted Local Plan. The land to the south and west of the main site is designated as Countryside Zone and Area of Great Landscape Value (AGLV). The edge of the employment allocation and a strip running through the east site is also allocated for strategic landscaping.

The east site and majority of the west site are located within the Future Growth Area for housing and related development in the new Local Plan. The exception is the field to the south of the west site near the top of the hill, which is designated as Countryside Zone (NB. AGLV designations have been removed from the new Local Plan). As stated above, a large part of this field is excluded from the site to the south, except for a strip around the edge which is proposed as a footpath.

The whole site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head; the northwest corner of the main site is also within a strategic flyway. The whole site is located with the Critical Drainage Area (CDA).

Detailed Proposals

The application has been submitted in outline with all matters reserved except access. The current description is for a mixed use, phased residential development of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with ecological mitigation, public open space and other associated infrastructure. The Council issued an EIA screening opinion in December 2014 concluding the proposal is not EIA development.

The application has been amended during the course of the application. This has mainly been to the level of employment provision. The original proposals included approximately 8,500 sq m employment floor area (Use Class B1), but this was revised down to 6,605 sq m (B1 and B8) in the first amendment (June 2015); the proposed community use of the derelict barn was also removed from the proposals. The amount of housing has remained the same.

During the course of the application, officers have secured, through negotiation, a number of improvements to the proposal, including:

- increased employment floorspace;
- revised site layout (illustrative) to ensure noise issues are overcome and reuse of the allocated waste site at Yalberton Tor Quarry is not prejudiced;
- improved connections between the site and Yannons Farm development;

- biodiversity enhancements and ecological off-setting; and
- delivery of junction improvements on Brixham Road.

The detailed access proposals include a new roundabout on Yalberton Road at the junction with Alders Way and widening of Yalberton Road to the south in order to provide a shared footpath/cycleway. The existing hedgerow to the south of Yalberton Road will be removed and a new 2 metre wide Devon hedgebank laid adjoining the shared footpath/cycleway. The new carriageway will be 6.5 metres wide and the footpath/cycleway will be 2.5 metres wide. The site boundary extends eastwards along Yalberton Road and includes the front of the Western Power site to accommodate the road widening. Beyond the site boundary, it is proposed to continue the shared footpath/cycleway along the south side of the road, to the front of Sainsburys, to link up with the proposed Brixham Road Western Corridor highway improvement works scheduled for autumn 2016. These works include a footpath to the front of McDonalds and a pedestrian crossing on Brixham Road to the south of the junction. The applicants will pay for these works, including the upgrading of the pedestrian crossing so that it is signalised, via s278 funding. It is expected the scheme will be delivered by July 2017. If the scheme is not delivered, the applicants have proposed a fallback option incorporating a toucan crossing on Yalberton Road adjacent to the Sainsburys petrol station and the continuation of the shared footpath/cycleway along the north side of Yalberton Road, to a pedestrian crossing on Brixham Road, north of the junction.

Therefore, access to the main site will be provided via a spur road on the new roundabout, with the continuation of the shared footpath/cycleway into the site. A 3 metre wide emergency access will also be provided further along Yalberton Road to the west. A link is also proposed to the Yannons Farm development site to the south, although this will be secured in the s106 agreement and details will be provided at reserved matters stage, as this part of the Yannons Farm development site is currently subject to an outline planning application and the detailed layout of this land has not been finalised. The smaller parcel of land to the east shall be accessed via a 5.5 metre wide access road off Wilkins Drive to the south, with the continuation of footpaths either side of the road into the site.

Details of layout, scale, appearance and landscaping are reserved matters. However, the applicants have provided an illustrative masterplan indicating the broad layout of the proposed development. The smaller east site is indicated as employment development in its entirety. The main site to the west is split into a number of development parcels. The land adjoining Yalberton Road is indicated as employment development, while the land to the south further up the slope is indicated as residential development. A linear open space, including a play area is indicated to the north of the site and a community orchard is indicated to the south adjacent to the existing derelict barn. The barn is indicated as being retained for ecological habitat. An existing overgrown agricultural track leading up to the barn will be retained and enhanced as a dark bat corridor. A circular

access route is indicated, which cuts through the bat corridor in two places. This is also shown traversing the steep part of the site to the west. A pond is indicated in the northwest corner to provide sustainable drainage. As previously explained, a large part of the field to the south of the site is not included in the application site boundary. It is proposed as a high meadow for ecological mitigation and biodiversity, with an area set aside for mixed native woodland. A recreational footpath is proposed around this area, with a footpath link to the adjoining Hilltop Park in the Yannons Farm development.

Summary Of Consultation Responses

Consultees were reconsulted on 11 November 2015 following amendments to the application description of development and submission of further information, including a revised illustrative masterplan. Consultees have 21 days to respond. At the time of writing this report, 3 days remain of this consultation period and some responses are still outstanding. These shall be provided as late representations.

Strategy and Project Delivery Team/Highways ('Local Highway Authority'): Comments awaited on latest consultation. Previously objected, as unable to conclude that the applicants can demonstrate the development will have a safe and suitable access for all. Nor can the development currently demonstrate connectivity to the adjacent residential development in a way which would enable sustainable transport modes to be maximised. There is also a lack of information to demonstrate that the junction (Yalberton Road and Brixham Road) has capacity to serve the proposed development, without causing severe impacts.

Environment Agency: No objection to latest drainage proposals, although acknowledge since April 2015 they are no longer the statutory consultee in relation to drainage matters. Advise that the application should not be determined until such time that clarity regarding a critical aspect of one of the surface water drainage options proposed is given by the developer to the satisfaction of the LPA, i.e. confirmation that a defined point of discharge is deliverable if infiltration is unviable.

Previously advised that Yalberton Tor Quarry could conceivably become an operational waste disposal and/or treatment site again. The introduction of new residential receptors immediately adjacent to the site would not be a desirable outcome, and would likely introduce significant challenges for achieving acceptable emission control, particularly for noise and other amenity issues, depending on the precise waste management activity taking place.

Historic England: Comments awaited on latest consultation. Recommended previously the application should be determined in accordance with national and local policy guidance and on the basis of the Council's specialist conservation advice.

Natural England: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and completion of a Habitats Regulations Assessment by the LPA. Previously advised that the application has the scope to adversely affect the favourable conservation status of the Berry Head greater horseshoe bat maternity colony, which is a designated SAC. Therefore, the local authority must carry out a Habitat Regulations Assessment in accordance with the Habitats Regulations. However, advise that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. Therefore, further information is required from the applicants.

Standing advice applies to other protected species. Advise that the authority should consider securing measures to enhance the biodiversity of the site if it is minded to grant permission. These should be set out in a comprehensive EclA. Note the RSPB have concerns regarding impacts on cirr buntings and advise that these are resolved before determining the application. The authority should assess the impacts on local designated sites, species and landscape character, which are also material considerations.

Engineering (on behalf of Torbay Council as Lead Local Flood Authority): The preliminary design of the proposed infiltration basin (pond) is satisfactory for the site. The developer should confirm where the Greenfield run off rate from the site will be connected if - following the detailed infiltration testing - it is not possible to infiltrate all of the surface water run-off from the site. No objection, subject to this being confirmed and pre-commencement conditions regarding detailed drainage design.

RSPB: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and cirr bunting mitigation strategy. Previously objected because onsite mitigation and offsite compensation proposals with respect to cirr bunting impacts are not yet adequate. This should be based on 1 pair onsite and 7 pairs offsite. It is unlikely skylarks would use proposals for skylark plots on the site and cirr bunting management is the priority for habitat creation. It is possible that there will be human disturbance to the barn that may deter owls from using it. Cirr bunting mitigation/compensation will need to be provided and managed to provide adequately for both greater horseshoe bats and cirr buntings.

Barn Owl Trust: Makes recommendations for mitigation/enhancement based on the Barn Owl evidence in the derelict barn on the site. This includes providing a temporary roosting/nesting box during construction works until permanent provision is made. A pre-development survey must be carried out to ensure no birds are nesting within three days of works commencing. A permanent nesting place for Barn Owls must be provided within one or more of the developed buildings and maintained thereafter. Welcomes recommendations for the creation of rough grassland habitat.

South West Water: Not satisfied that the public foul drainage network has capacity to support the development without causing downstream property flooding. Therefore, if the application is approved, the following condition needs to be imposed:

No development shall commence until:

a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the Development; and

b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).

No dwelling hereby approved shall be occupied or brought into use and there shall be no discharge to the public foul sewerage network, unless approved in writing by the Local Planning Authority (as in accordance with the scheme of improvement works identified by the Sewerage Undertaker as necessary to accommodate the discharge of foul sewage from the Development).

Police Architectural Liaison Officer: Consideration should be given that the development is constructed to meet full Secured by Design (SBD) compliance. Happy to advise further at reserved matters stage.

Torbay Development Agency: No response.

Arboricultural Officer: The access proposals are suitable for approval on arboricultural merit. Mitigation tree planting should be sought in the realigned Devon hedgebank. The indicative access road south of the proposed roundabout abuts an important group of remnant elm trees, which should be retained and regarded as significant constraints in the future layout. The road, including footways and associated service runs, should be aligned to avoid disturbance to the root protection areas of these trees. A Landscape and Ecological Management Plan (LEMP) must be secured following agreed landscape design of street trees, groups, shrub masses, etc. The detailed landscaping scheme should address the requirements of the rural location against the need to provide sustainable trees of seasonal interest. Trees should be positioned at arrival points and planted in hedgerows. The proposed orchard requires detailing out at an early stage. The detailed landscaping plan should integrate use of storm water runoff to water tree pits.

The siting of the emergency access is acceptable, subject to a method statement to prevent damage to rooting zones of the lime tree. Additionally any widening

should be achieved by works to the pillar away from the stem.

Building Control: Comments awaited on latest consultation, but previously advised that the Building Regulations do not apply.

Community Protection: Objected previously, due to residential uses indicated adjacent to Yalberton Road, close to Yalberton Tor Quarry, and the potential for adverse noise impacts from the waste site and associated HGV movements. However, in response to the latest consultation, following the submission of a revised illustrative masterplan, stated that their previous concerns regarding noise from the allocated waste site are now greatly reduced, due to the proposed introduction of employment uses adjacent to Yalberton Road to provide a buffer to the proposed residential uses. Recommend conditions to limit the hours of use of the employment uses and deliveries.

Head of Asset Management & Housing: It is to be commended that the scheme will be providing the policy requirement of 30% Affordable Housing, which on a scheme of 192 dwellings will generate 58 affordable homes. These will be a variety of affordable housing tenures including 1/3 social rent, 1/3 affordable rent, 1/3 shared/home ownership including up to 5% self/custom build which will assist in meeting the variety of housing need. The mix of house types and sizes will be proportionate to the development as a whole and subject to the completion of a satisfactory S106 agreement which will set out the details around specification, location etc. then Housing Services are in support of the application.

Natural Environment Services: Comments awaited on latest consultation pending submission of a revised Ecological Impact Assessment (EclA) and cirl bunting mitigation strategy. Previously advised that the proposed amounts of green infrastructure, open space and play should be secured via s106 agreement. Further details of these areas, including on-going management in perpetuity, will need to be secured by condition. Given the results of the ecological surveys, the detailed design and on-going management of these areas must be developed in consultation with Natural England and the RSPB. In addition, a contribution towards off-site sports facilities should be secured in accordance with the Planning Contributions and Affordable Housing SPD. This should be calculated on the basis of £394 per person, as 'equipped facilities for young people' and 'greenspace' are indicated to be provided onsite. A Landscape and Ecological Management Plan (LEMP) must be secured.

Senior Historic Environment Officer: Previous proposals for this area have included Archaeology and Cultural Heritage Assessments that have indicated the presence of Romano-British finds and the potential for previously unrecorded archaeological deposits. The red line for this area additionally includes an area to the north where the HER records the potential for an ancient earthwork (MTO21379) at SX 286930 59080. Therefore, the archaeological condition recently approved by Historic England should be attached to any outline planning

permission.

Urban Design Officer (Landscape): The submitted Landscape and Visual Impact Assessment (LVIA) is in accordance with best practice. Only criticism is that by restricting the zone of theoretical visibility to a 2.5 km radius some long views from Barton Pines, Beacon Hill and Windmill Hill, have not been considered. However in these distant views the site is a very small component of a much wider landscape and will be seen against the backdrop of Paignton's existing urban edge. The proposed development site extends beyond the boundary of the Future Growth Area to the southwest, but does not consider that this small extension will increase the visual impact of the wider development. The LVIA is considered accurate and its summary and conclusion are agreed - on that basis, recommends approval from a landscape impact perspective.

Strategy and Project Delivery Team: The proposed amount of employment is acceptable and within the requirements of Policies SS5 and SDP3 (as modified) of the new Local Plan. The Development Areas Plan (3445/203/L) shows around 2.34 ha identified for employment use, which is within the range sought. The employment noise buffer adjoining Yalberton Road is welcomed. Whether the buffer indicated is sufficient to safeguard the Quarry's future use as a waste site is a matter for Community Protection officers to advise on. However the application is in outline and the detailed boundary between employment and residential development can be resolved as a reserved matter. It is appropriate to impose a condition requiring the detailed layout to show housing at a sufficient distance from the quarry to avoid its use as a waste site being prejudiced (in accordance with Policy W3 of the new Local Plan). Subject to this condition, there is no objection to the application as revised from a strategic planning position.

Waste Client Manager: Previously stated, 'No issues regarding waste'. No comments submitted for the amended proposals.

South Hams District Council: Comments awaited on latest consultation. Previously raised concerns over the potential for the development to have an impact within the South Hams, particularly on the A385 corridor, the local road network on Totnes and on the village of Stoke Gabriel (from traffic generation).

Local Access Forum: Comments awaited on latest consultation. However, provided no comments to previous consultations.

Summary Of Representations

The application has been publicised three times relating to the original and amended proposals. The latest publicity period is still running and ends on 9 December 2015. Any further representations received will be provided as late representations or reported verbally by officers at committee.

Seven objections were received in relation to the original proposals; these included objections from Paignton Neighbourhood Forum, Stoke Gabriel Parish Plan Group, the owners of Rodgers Industrial Estate and Cavanna Homes, who are the developers of the neighbouring site. A neutral comment was also received querying the boundary line over the ownership of the hedge to Little Preston. A further eight objections were received in relation to the proposals as first amended; four of these were from previous objectors, including Paignton Neighbourhood Forum, Stoke Gabriel Parish Plan Group and Cavanna Homes. Objections were also received from Stoke Gabriel Parish Council and the Stoke Gabriel low-e community group. At the time of writing this report, no representations have been received in relation to the latest publicity period, which is still running.

The following issues were raised in the first publicity period (Dec 2014 - Jan 2015) in response to the original proposals:

- Concerns re potential impact on adjoining horse grazing field
- Is more development needed and why do greenfield sites need to be used?
- Impact on wildlife
- Access arrangements do not comply with best planning of the area - the access built on Brixham Road to serve Yannons Farm was designed to accommodate the whole employment allocation
- Transport Assessment is inadequate and does not test all scenarios - it has not demonstrated there will not be a severe traffic impact in accordance with the NPPF
- S106 agreement required
- Toucan crossing on Yalberton Road adjacent to petrol filling station would cause serious safety issues
- No details of forward visibility provided
- HGV swept path analysis required for Alders Way
- Road Safety Audit should be provided of access proposals
- Loss of employment land - at least 50% of west site should be employment to accord with new Local Plan (NB. This figure has since been revised down to 25%)
- Loss of Countryside Zone and AGLV land
- Insufficient information on foul drainage
- Lack of Habitats Regulations Assessment
- Insufficient regard to traffic impacts on Yalberton Road to the west of the site
- Access and mix proposals will result in adverse impacts to residential and conflicts with business uses
- Strategic landscaping belt required to west
- Foul and surface water drainage proposals required before decision made
- Access to employment on west site should be from north and access to residential should be from south

- Overhead power lines should be undergrounded
- Allotments should be provided and proposed green infrastructure secured
- Green lane link should be provided
- Impacts on Stoke Gabriel, including drainage and traffic on Yalberton Road
- Proposed 5.5 metre road width along Yalberton Road to Alders Way is not wide enough for existing and proposed traffic, including HGVs - should be 7.2 metres wide
- Access proposals along Yalberton Road lack detail and clarity - current proposals will create dangerous bottleneck
- Impacts on drainage and road infrastructure - cycling will be more hazardous.

The following issues were raised in the second publicity period (June 2015 - July 2015) in response to the proposals as first amended:

- Already traffic problems in Parish of Stoke Gabriel - further traffic will impact the local economy, including holiday business
- Revised proposals have not addressed previous concerns regarding access along Yalberton Road and the Transport Assessment
- No draft s106 agreement available to ensure necessary infrastructure contributions shall be secured
- Replacement of toucan crossing on Yalberton Road with uncontrolled pedestrian crossing adjacent to petrol filling station that is referred to in TA Addendum is still shown on the drawings resulting in lack of clarity - the downgraded pedestrian crossing is unsafe
- Scenarios still untested in the TA, including one where there is a through route between Brixham Road and Yalberton Road via the Yannons Farm development
- Number of detailed concerns with the veracity of the TA Addendum
- 30 mph speed limit will need to be extended west to the proposed mini-roundabout in order for the mini-roundabout to comply with mandatory standards
- Mini-roundabout is wholly inappropriate and does not comply with mandatory standards - it is also considered unsafe and susceptible to accidents
- No information has been provided on the capacity of the proposed roundabout
- Lack of information on visibility at the roundabout
- No provision of pedestrian facilities to cross Yalberton Road to access Alders Way
- No Road Safety Audit for the mini-roundabout
- No details of forward visibility provided
- Access proposals should be based on full topographical survey of Yalberton Road
- HGV swept path analysis required for Alders Way

- Concerns with safety of access proposals on a number of counts, therefore application should be refused in accordance with NPPF
- Disappointed amended proposals have not taken into account suggestions of PNF - previous concerns remain, particularly loss of employment land to residential, lack of information on foul drainage, inappropriate access, and how habitat impacts will be mitigated
- Piecemeal approach to access, separate from other issues, is not satisfactory
- Previous concerns regarding impacts on Stoke Gabriel, including drainage and traffic on Yalberton Road remain - the proposed access is unacceptable
- Increase in traffic/HGV movements along Yalberton Road will result in noise and fume pollution out of keeping with proposed residential
- Proximity of proposed roundabout to existing Aggregate Recycling Plant - no information on HGV movements to/from this plant
- Impact of increased HGVs on residential quality of life along Totnes Road and King's Ash Hill
- Visual impact of overhead power cables on proposed development
- Previous concerns regarding impacts on drainage and road infrastructure remain - proposal is unsustainable in NPPF terms; reduction in employment does not accord with new Local Plan; noise impacts of adjacent industrial estates/landfill site; impacts on protected species; impacts on historic assets; traffic and access issues raised by Cavanna Homes are salient
- Greenfields and open aspects of the site should remain - proposed development not in keeping with area
- Further development should provide 100% affordable housing
- Lack of local facilities for future residents
- Insufficient measures to reduce air and light pollution
- Adequate network of cycle paths should be provided
- Geological survey required
- Sustainable drainage and rainwater harvesting must be promoted
- Majority of Long Road not part of National Cycle Network (NCN), contrary to information in Revised Design and Access Statement - creating a cycle route along Litson Lane/Whitehill Lane would bypass some dangerous stretches along western end of Long Road.

Relevant Planning History

There are no records of any previous planning applications having been submitted for the site.

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Noise and Amenity Issues

3. Landscape Impact
4. Access and Impact on Highways
5. Ecology Impacts
6. Impact on Trees
7. Drainage and Flood Risk
8. Affordable Housing
9. Archaeology

1. The Principle of the Development

At the time of writing this report the development plan comprises the Adopted Torbay Local Plan 1995-2011. The emerging Torbay Local Plan - A landscape for success 2012-2030 is a material consideration with significant weight, as the Inspector has found it sound subject to main modifications. The Council will receive a report in December 2015 recommending adoption of the new Local Plan, subject to the main and additional minor modifications. The Council will make a decision whether to adopt the new Local Plan at the Council meeting on 10 December. If it is adopted, it will become the development plan for Torbay and the current Local Plan will no longer apply.

The principle of the development is considered by officers to be acceptable. Whilst the majority of the site is allocated for employment development in the current Local Plan, the principle of allowing mixed residential and employment development within the employment allocation has already been established on the adjoining sites known as Yannons Farm and Parkbay. Furthermore, with the exception of the field to the south of the main site, the land is allocated as a Future Growth Area for housing and related development in the new Local Plan (Policy SS2). Whilst the illustrative masterplan indicates some housing development to the southwest of the main site extending into the Countryside Zone where development will be resisted (Policy C1), layout is a reserved matter so this aspect of the proposals is currently not under consideration. In addition, Policy C1 allows some forms of development in the Countryside Zone where there will be no harm to the environment or landscape character, including self build affordable housing.

Therefore, the principle of developing the site for residential and employment uses, together with ecological mitigation, public open space and other associated infrastructure is considered to be acceptable. Officers previously objected to the amount of employment in the application, however this has been amended in the latest proposals and now accords with new Local Plan Policies SS5 and SDP3 (as modified), where 25% of the site is required for employment (net development area). A clause will be required in the s106 agreement requiring the employment development to be delivered by a trigger point to be agreed relating to the delivery of the new housing.

2. Noise and Amenity Issues

Strategic Planning and Community Protection officers objected previously, due to the close proximity of the proposed residential uses on the main site to the allocated waste site (Policy W3) at Yalberton Tor Quarry. Not only would the waste site and associated HGV traffic movements along Yalberton Road have potential to have an adverse impact on the amenities of the new residential properties from noise and fumes, this would also prejudice the use of the waste site as it could not operate under its current consents. Allocated waste sites are protected by Policy W3 of the current Local Plan and Policy W3 of the new Local Plan. Strategic officers have confirmed with Devon County Council that the site is needed and there is no alternative provision in Torbay or nearby. Therefore, its protection is necessary.

Following the submission of a revised illustrative masterplan showing employment uses sited adjacent to Yalberton Road to provide a buffer between the proposed housing and the waste site, officers have withdrawn their previous objections. However, a condition will be required to ensure the layout of the housing will not prejudice the use of the allocated waste site as a waste management facility and there will be no adverse impacts from its reuse. This will require a noise assessment.

The overhead power lines crossing the main site will affect the visual amenity of the uses beneath them and nearby. This should be taken into account in the layout of the development at reserved matters stage (current Local Plan Policy IN2 and new Local Plan Policy DE3). If they are to be undergrounded, an easement will be required for maintenance purposes.

Subject to a condition to ensure the layout of the development will not prejudice the use of the allocated waste site at Yalberton Tor Quarry, the proposals are considered to be acceptable with regards to noise and amenity issues. These issues will need to be taken into account at reserved matters stage.

3. Landscape Impact

A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application, which accords with best practice. Officers' only criticism is that by restricting the zone of theoretical visibility to a 2.5km radius, some long distance views from Barton Pines, Beacon Hill and Windmill Hill have not been considered. However, the site is a very small component of a much wider landscape in these views and will be seen against the backdrop of Paignton's existing urban edge. Therefore, officers agree with the findings of the LVIA and do not consider that the proposed development will have a landscape impact. This includes the part of the site extending into the Countryside Zone. The green infrastructure indicated on the illustrative masterplan should be secured in order to soften and integrate the development into the rural landscape setting. These

matters will need to be taken into account at reserved matters stage.

4. Access and Impact on Highways

At the time of writing this report, comments are awaited from Strategic Planning colleagues on behalf of the Local Highway Authority on the latest access proposals. However, their initial views are that the proposed access option of widening Yalberton Road and providing a shared footpath/cycleway along the south side of the road, linking up with the proposed Brixham Road Western Corridor highway improvement works is acceptable in principle. There is a shortfall in funding to deliver the works, due to a gas main, and the applicants will need to pay this shortfall in order to ensure there is access to the site. The works are estimated to be delivered in July 2017 and a condition will be necessary preventing occupation of the development until the works have been completed to the satisfaction of the Local Highway Authority.

The fallback option of providing a pedestrian crossing on Yalberton Road adjacent to the Sainsburys petrol filling station and continuing the shared footpath/cycleway on the north side of the road to a new toucan crossing on Brixham Road to the north of the junction is considered unacceptable by officers, due to safety concerns with the proposed pedestrian crossing on Yalberton Road. Furthermore, the deliverability of the toucan crossing to the north of the Brixham Road/Yalberton Road junction is questioned by officers, due to topography and other constraints; officers also consider that it would be a waste of resources to construct a toucan crossing to the north of the junction, only to have to relocate it south of the junction as part of the highway improvement works a short time later. Therefore, the access proposals that link up with the proposed highway improvement works are considered to be the only viable option.

External transport consultants have been appointed to review the access options and the impact of the proposals on the local highway network, including the capacity of the Brixham Road/Yalberton Road junction to accommodate the proposed development. They have identified errors in the latest Transport Assessment Addendum, which have been provided to the applicants' transport advisers. Therefore, further information is currently awaited from the applicants and at the current time, officers cannot conclude with certainty that the proposals will not have a severe traffic impact. However, the Council's transport consultants consider that there is likely to be a workable solution. An update will be provided by officers at committee.

The application should not be permitted until details of safe access arrangements that will not have a severe impact on the local highway network have been provided. If this information has not been provided to the satisfaction of the Local Highway Authority by the time of the committee, officers will seek Members' approval for this matter to be delegated to officers to resolve with the applicants

within three months of the committee, or the application will be brought back to committee to be reconsidered in full.

Comments are also awaited from the Local Highway Authority to confirm that the proposed access points to the development comply with highway standards in terms of their geometry and visibility. A link to the Yannons Farm development is proposed, but details have not been provided because the layout of this part of the Yannons Farm site has not been approved. This will need to provide access for pedestrians and cyclists - if it includes a vehicular link the modelling in the Transport Assessment Addendum will need to be re-assessed. A public transport connection for buses is also required between the sites. The preferred route in the long term is to the east of the main site via the Western Power site to connect with the principal distributor road that currently stops adjacent to Torbay Pharmaceuticals. The layout will need to be 'future proofed' to allow for this at reserved matters stage. A condition/obligation in the s106 should be secured accordingly. The access route to the west of the main site traversing the steep part of the site is unlikely to meet highways adoption standards in terms of its gradient, however officers accept this can be resolved as part of the layout at reserved matters stage.

Therefore, at the time of writing this report, the access proposals are not suitable for approval. Further information is being prepared and an update will be provided by officers at committee.

5. Ecology Impacts

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head and the northwest corner of the main site is just within a strategic flyway. The Council's external ecological adviser with respect to the South Hams SAC has advised that insufficient information has been submitted to enable the authority to carry out a Habitats Regulations Screening Assessment. The applicants are currently in the process of revising their Ecological Impact Assessment (EclA) accordingly, however at the time of writing this report it has not been submitted. When an adequate EclA has been submitted, if the screening assessment concludes that an Appropriate Assessment is required this will need to be prepared by the LPA and Natural England consulted.

An update on the above matters will be provided by officers at committee. If a Habitats Regulations Screening Assessment has still not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

The site has been identified as a habitat for a nationally important population of curlew buntings, which is a protected species. This habitat will be lost when the site

is developed. Therefore, mitigation and/or compensation is required in accordance with local policies (current Local Plan Policy NC5 and new Local Plan Policy NC1) and national guidance. It has been agreed that the application will need to mitigate/compensate for 8 pairs. The RSPB recommend 2.5ha of land is needed to provide suitable new habitat to mitigate/compensate one breeding pair. The applicants have not provided an adequate mitigation/compensation strategy to address this impact at the time of writing this report, and the RSPB object to the application on this basis. However, it is understood that they intend to use the high meadow to the south of the site to compensate one pair, TCCT land at Cockington to compensate 5 pairs (a management strategy for this land has already been prepared by TCCT and agreed with RSPB), and other offsite land near the site to compensate 2 pairs. Officers have requested this information as part of the revised EclA and informed the applicants that planning permission cannot be granted until it is received. It will need to include details of land ownership, how the land will be managed, who it will be managed by and how long for. Once agreed, it will need to be secured in the s106 agreement. The offsite management must not degrade habitat for greater horseshoe bats within the sustenance zone.

If a satisfactory cirl bunting mitigation/compensation strategy has not been submitted by the time of the committee, officers will seek Members' approval for this matter to be delegated to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee to be reconsidered in full.

The derelict barn on the site has been identified as a barn owl habitat. It is to be retained accordingly. The Barn Owl Trust has recommended conditions to ensure the retention of this habitat during and post construction. These should be added to the planning permission if the application is approved.

The revised EclA should also include general measures to enhance biodiversity on the site in accordance with the NPPF. These should be secured by condition.

6. Impacts on Trees

The Council's Arboricultural Officer has no objections to the proposals, despite the removal of the existing hedgebank along Yalberton Road east of the proposed roundabout. The existing hedgebank contains a number of poor quality trees and replacement tree planting should be provided in the new hedgebank.

The main site includes an important group of remnant elm trees, which should be retained and incorporated into the detailed proposals at reserved matters stage. They will also need to be protected during the construction phase.

Therefore, the proposals are considered to accord with Policy L9 of the current Local Plan and Policy C4 of the new Local Plan, subject to conditions to secure:

a Tree Protection Plan and Arboricultural Method Statement to protect existing trees during construction, detailed landscaping proposals and a Landscape and Ecological Management Plan (LEMP). An informative should be added to the permission if the application is approved, recommending early engagement with the Council's Arboricultural Officer when landscaping proposals are drawn up for reserved matters.

7. Drainage and Flood Risk

Despite being a concern of local residents, including those in Stoke Gabriel, the proposed drainage of the site is considered to be acceptable, subject to conditions. With respect to foul drainage, South West Water is not satisfied that the public foul drainage network has capacity to support the development without causing downstream property flooding. However, they have recommended a condition to deal with this issue, which will need to be added to the planning permission if the application is approved. In terms of surface water drainage, sufficient information has been submitted to demonstrate that surface water can be drained sustainably on the site via an infiltration pond in the northwest corner of the main site adjacent to Yalberton Road; however, details of an offsite connection are required in case it is not possible to infiltrate all of the surface water run-off from the site. Pending submission of these details, the application accords with current Local Plan Policy EPS and new Local Plan Policy ER1, subject to conditions to secure details of the detailed drainage design prior to commencement and how the sustainable drainage features will be maintained.

8. Affordable Housing

The applicants have not submitted a viability assessment and have agreed to provide the policy compliant level of affordable housing for the development. If the maximum number of dwellings is provided, this will mean that 58 affordable units will be delivered (30%), including up to 10 self-build plots (5%) in accordance with Policies H2 and H3 of the new Local Plan. The Head of Asset Management and Housing has commended this and stated that the policy compliant mix of a third social rent, a third affordable rent and a third shared ownership, including up to 5% self build, will assist in meeting the variety of housing need. In addition, the mix of house types and sizes must be proportionate to the development as a whole.

The applicants have requested some flexibility over the tenure mix of the affordable housing, following recent announcements by the Government affecting registered social landlords. This will be discussed further with the applicants and Head of Asset Management and Housing while the s106 agreement is drafted.

9. Archaeology

The Senior Historic Environment Officer has identified the potential for previously

unrecorded archaeological deposits on the site from earlier studies. In addition, the site includes an area to the north where there is potential for an ancient earthwork. Therefore, the standard archaeological condition should be attached to the planning permission if it is approved.

S106/CIL -

The affordable housing and contributions for the application are set out below, in accordance with Adopted Local Plan Policies H6 and CF6, new Local Plan Policies SS7, H2 and H3, and the adopted Planning Contributions and Affordable Housing SPD and its Update 3. The sustainable development contributions have been estimated, as the application is in outline meaning the precise floor areas of the dwellings are unknown at this stage - a dwelling size average of 95-119 sq m has been used below for the upper limit of 192 dwellings; the s106 agreement shall include a schedule to calculate the precise contributions when the floor areas are known following submission of reserved matters. Site acceptability access infrastructure is included.

Site Acceptability

- o Re-route gas main as part of Brixham Road Highway Improvement Works = £360k (tbc)
- o S278 works to Yalberton Road = £130k-£155k (tbc)
- o Cirl bunting mitigation/compensation strategy for 8 pairs (1 onsite, 7 offsite), with 5 pairs to be compensated by habitat enhancement at Cockington via a contribution of £436,565 to TCCT
- o Waste Management = £9,600 @ £50 / unit

Affordable Housing

- o Up to 58 affordable dwellings (30%) to include a third social rent, a third affordable rent and a third intermediate, with up to 5% self build plots

Sustainable Development (based on 134 open market dwellings, 16 social rent, 16 affordable rent, 16 intermediate and 10 self build plots - all units 95-119 sq m)

- o Sustainable Transport = £393,690
- o Education = £176,950
- o Lifelong Learning = £58,840
- o Greenspace and Recreation = £173,754

TOTAL = £803,234

Administration/Monitoring of S106

Administration charge tbc (calculated on a time basis at £60 standard hourly rate).

Mitigation:

Mitigation has been applied to the contributions calculated above as follows:

- o Social rent & affordable rent dwellings - 100% discount to SD contributions, not waste and other site acceptability matters.
- o Intermediate & self build dwellings - 50% discount to SD contributions, not waste and other site acceptability matters.
- o Sustainable Transport contribution for employment uses - 100% discount due to 'Mitigation for Economic Prosperity (jobs created)'
- o Greenspace & Recreation includes 'Playing Pitches' (£144 per person) and 'Multi use games area' (£250 per person) only; it does not include 'Equipped facilities for young people' and 'Greenspace', as these are indicated to be provided onsite. Provided the onsite provision is secured as an obligation in the s106, the cost per dwelling is reduced as follows:
 - o 2 bed = 1.9 persons x £394 = £749 per dwelling
 - o 3 bed = 2.6 persons x £394 = £1,024 per dwelling
 - o 4 / 4+ bed = 3 persons x £394 = £1,182 per dwelling

NB. The SD contributions will increase if the amount of affordable housing provision is decreased.

In addition to the above, a clause will be required in the s106 requiring phasing details. This will need to include the delivery of the employment development at a trigger point to be agreed with the applicants, linked to the delivery of the new housing.

Justifications:

The Brixham Road highway works contribution is justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). There is a shortfall in funding to reroute a gas main as part of the planned improvement works at the Brixham Road/Yalberton Road junction. The improvement works are necessary to increase the capacity of the junction to accommodate the proposed development. The applicants have agreed to pay the shortfall in order to provide adequate access arrangements for the proposed development.

The Yalberton Road highway works contribution is justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). It will pay for the continuation of the shared footpath/cycleway along Yalberton Road and upgraded toucan crossing on Brixham Road in order to provide safe pedestrian/cycle access to the proposed development.

A cirl bunting mitigation/compensation strategy must be prepared before granting planning permission and secured in the s106 to ensure the impacts on this protected species are adequately mitigated/compensated to make the development acceptable in planning terms. It is a site acceptability matter justified in paragraphs 2.1-2.4 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). The contribution to compensate 5 pairs at Cockington has been calculated by TCCT, who have agreed a cirl bunting management strategy for this land with RSPB. The site setup and management costs have been divided by the total number of pairs the enhancement works will support to arrive at the cost per pair.

The waste management contribution is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policy W1. It will pay the costs of providing waste and recycling bins to the dwellings.

The affordable housing provision is justified in Section 3.0 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies H2 and H3.

The sustainable transport contribution is justified in paragraphs 4.12-4.24 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and TA2. It will be used to pay for sustainable transport network enhancements in the local area for use by future occupiers/visitors of the proposed development.

The education contribution is justified in paragraphs 4.40-4.46 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards funding projects at schools in Paignton as part of Children's Services Capital Programme. The dwellings will place additional demand on local schools and the contribution will ensure local schools are provided with funding to mitigate the proposed development.

The lifelong learning contribution is justified in paragraphs 4.47-4.51 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards the cost of improving provision at Paignton Library, including IT equipment. The dwellings will place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The greenspace and recreation contribution is justified in paragraphs 4.52-4.58 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS9. It will be used towards improving maintenance, management and equipment at existing

facilities within easy walking distance of the site. The dwellings will place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

The administration/monitoring contribution is justified in paragraphs 5.6-5.8 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and will be used to administer/monitor the s106 agreement.

Status:

The applicants have agreed to provide 30% affordable housing, but have not agreed to the site acceptability matters or sustainable development contributions at the time of writing this report. They are waiting for further details of what the sustainable development contributions will be spent on. A verbal update will be provided by officers at committee. The affordable housing and other obligations will need to be secured in a s106 agreement; however, final Heads of Terms have not been agreed and therefore Legal Services has not been instructed to prepare an agreement at the current time. An update will be provided at committee.

Conclusions

The principle of developing the site for a mix of housing and employment uses is considered to be acceptable and in accordance with the provision of the current Adopted Local Plan, taking material considerations of recent developments into account, and the new Local Plan. The majority of the land in the site is within the Future Growth Area for housing and related development. A condition is required to ensure the layout of the development will not prejudice the future use of the allocated waste site at Yalberton Tor Quarry in terms of noise impacts.

Details are currently awaited to confirm that the proposed access arrangements to the site are safe and deliverable, and will not cause a severe impact to the local highway network. If this information is not received before the committee, officers will seek delegated authority to resolve these matters with the applicants within three months of committee, or the application will be brought back to committee for full reconsideration.

Insufficient information has been submitted to enable the authority to carry out a Habitats Regulations Screening Assessment in accordance with the Habitats Regulations. A revised Ecological Impact assessment is anticipated to be submitted shortly. If a Habitats Regulations Screening Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers' recommendation will change to deferral to provide more time for these matters to be resolved.

A detailed curlew bunting mitigation/compensation strategy is required before the application is permitted. The RSPB currently objects to the application, due to

inadequate information in this regard. The applicants are in the process of producing this strategy. If a satisfactory cirl bunting mitigation/compensation strategy has not been submitted by the time of the committee, officers will seek delegated authority to resolve this matter with the applicants within three months of committee, or the application will be brought back to committee for full reconsideration.

The drainage proposals (foul and surface water) are considered to be acceptable for approval at this stage, subject to conditions and details, prior to determination, of an offsite surface water drainage connection in case it is not possible to infiltrate all of the surface water run-off from the site.

The applicants propose to deliver the policy compliant level of affordable housing (30%), although have requested flexibility on tenure mix. This provision will need to be secured in a s106 agreement, together with site acceptability matters relating to access and ecology issues, and sustainable development contributions to mitigate the impacts of the development on local infrastructure. A clause will also be required to ensure the delivery of the employment development by a trigger point relating to the delivery of the new housing to be agreed. At the time of writing this report, the final Heads of Terms have not been agreed with the applicants and an update will be provided at committee.

Condition(s)/Reason(s)

01. Reserved Matters
02. Layout must not Prejudice Use of Allocated Waste Site
03. Future Proof Access to Western Power Site in Layout
04. Design Code
05. Archaeology - Written Scheme of Investigation
06. No Development during Bird Breeding Season (March-Sept)
07. Construction and Environmental Management Plan (CEMP)
08. Lighting Design Strategy - Dark Areas
09. Temporary Barn Owl Habitat Provision during Construction
10. Pre-development Survey for Barn Owls
11. Permanent Barn Owl Nesting Place

12. Secure Biodiversity Enhancements (NPPF)
13. Arboricultural Method Statement and Tree Protection Plan
14. Construction Method Statement
15. Waste Audit and 5 Year Waste Management Plan
16. S278 Agreement
17. Detailed Landscaping Scheme incl. Plant Species and Planting Methodologies
18. Landscape and Ecological Management Plan (LEMP)
19. Detailed Lighting Design Scheme
20. Foul Drainage (SWW)
21. Surface Water Drainage Details - Detailed Design and Maintenance
22. Prevent Occupation/Use until Brixham Road Highway Improvement Works Delivered
23. Prevent Occupation/Use until Car Parking Provided
24. Prevent Occupation until Details of Cycle Parking Provided/Implemented
25. Limit Delivery Times to Employment Uses

Relevant Policies

H2 - New housing on unidentified sites
HS - Housing Strategy
H6 - Affordable housing on unidentified sites
H9 - Layout, and design and community aspects
H10 - Housing densities
H11 - Open space requirements for new housing
ES - Employment and local economy strategy
E1 - New employment on identified sites
E116C - Yalberton Road, Paignton (New Policy)
E9 - Layout, design and sustainability
CFS - Sustainable communities strategy
CF2 - Crime prevention
CF6 - Community infrastructure contributions
CF7 - Educational contributions
INS - Infrastructure strategy

IN1 - Water, drainage and sewerage infrastru
IN2 - High voltage power lines
W3 - Protection of waste management sites and
W7 - Development and waste recycling faciliti
LS - Landscape strategy
L2 - Areas of Great Landscape Value
L4 - Countryside Zones
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
L10 - Major development and landscaping
NCS - Nature conservation strategy
NC1 - Protected sites - internationally import
NC3 - Protected sites - locally important site
NC5 - Protected species
EPS - Environmental protection strategy
EP4 - Noise
EP5 - Light pollution
EP9 - Groundwater
BES - Built environment strategy
BE6 - Development affecting listed buildings
TS - Land use transportation strategy
T1 - Development accessibility
T2 - Transport hierarchy
T22 - Western Corridor
T26 - Access from development onto the highway
SS1 - Growth Strategy for a prosperous Torbay
SS2 - Future Growth Areas
SS3 - Presumption in favour of sustainable dev
SS4 - The economy and employment
SS5 - Employment space
SS6 - Strategic transport improvements
SS7 - Infrastructure, phasing and employment
SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low Carbon and Climate Change
SDP1 - Paignton
SDP3 - Paignton North and Western area
TA1 - Transport and accessibility
TA2 - Development access
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity_

H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
H3LFS - Self build affordable housing_
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
SC4 - Sustainable food production
SC5 - Child poverty
ES1 - Energy
ER1 - Flood Risk
ER2 - Water Management
W1LFS - Waste hierarchy_
W2LFS - Waste audit_
W3LFS - Existing waste management facilities_
M3LFS - Preserving local building stone_

Agenda Item 7

Application Number

P/2015/0840

Site Address

1 Southfield Road
Paignton
Devon
TQ3 2SL

Case Officer

Matt Diamond

Ward

Clifton With Maidenway

Description

Erection of 4 storey block of flats comprising 12 no. 2-bed flats, with associated pedestrian/vehicular access and parking

Executive Summary/Key Outcomes

The application is to develop a 4-storey block of flats (12 no. 2-bed flats) on the grassed, amenity area of an existing block of flats (11 flats) at 1 Southfield Road to the northwest of Paignton Town Centre. The site is located within and on the edge of the Old Paignton Conservation Area.

A proposal for a similar development was refused in 2007; however, subsequent applications were approved, due to comments made by the appeal Inspector stating that the design would enhance the character and appearance of the Conservation Area.

Whilst the principle of developing housing on the site is considered to be acceptable by officers, the proposed design is considered to be unacceptable due to its height and lack of distinctiveness. It will harm the character and appearance of the Conservation Area accordingly. Furthermore, it will leave little useable amenity space for the residents of the flats or the existing flats. Therefore, despite the earlier decisions, the application should be refused. This takes into account the Policies of the new Local Plan and a recent appeal decision made with respect to the Gleneagles Hotel site in Torquay, which are new material considerations carrying significant weight. Officers' preference is for a lower storey building that is subservient to the historic host building on the site, whilst leaving adequate amenity space around it for residents to use and to plant shrubs and trees. This will help the development to blend into the landscape setting.

In addition, insufficient information has been submitted with the application to demonstrate that the proposal will not result in downstream flooding within the Critical Drainage Area (CDA). Detailed drainage proposals must be submitted with planning applications, with priority given to sustainable drainage systems where feasible. No infiltration testing has been carried out on the site to investigate whether a SUDS system is feasible and the submitted Flood Risk Assessment lacks detail and justification why this is the case.

Taking the above issues into account, the application should be refused.

Recommendation

Refusal; for the reasons set out in this report.

Statutory Determination Period

The application was validated on 04.09.2015. The statutory determination date is 05.12.2015 (13 weeks).

Site Details

The site is a backland site behind properties fronting onto Colley End Road to the northwest of Paignton Town Centre. It is approximately 0.23ha in area. It comprises the sloping, grassed amenity area of an existing 4-storey block of flats (11 flats), and the existing parking court and part of the access road to Southfield Road. The existing block of flats is outside the application site boundary, but is within the same ownership as the site.

The site is bounded by the gardens of residential properties fronting onto Redburn Road to the north, Southfield Road and Colley End Road to the east, residential properties and Kitson Hall fronting onto Colley End Road to the south, and Kirkham Court to the west. The immediate area is primarily residential. To the northeast of the site entrance are a Grade II listed warehouse and church.

The site is located within and on the boundary of the Old Paignton Conservation Area. Apart from this it is undesignated in the Adopted Torbay Local Plan 1995-2011 ('the current Local Plan') and Torbay Local Plan - A landscape for success 2012-2030 ('the new Local Plan').

Detailed Proposals

The proposed development is to develop a 4-storey block of flats (12 no. 2-bed flats) on the sloping, grassed amenity area of the existing block of flats on the site. It is a reapplication of a scheme granted planning permission in 2009 and which was granted an extended time limit to implement in 2012. The scheme remains unimplemented.

A new access drive will be constructed from Southfield Road over part of the existing access road. Unlike the existing access, this will go directly up the slope and will have a steep gradient of 1:7. This will lead to a rearranged parking court with a total of 26 car parking spaces. 23 of the spaces will provide 1:1 parking for the existing and proposed blocks of flats. 3 additional spaces will be provided for an adjoining site on the remaining part of the existing access road, which was granted planning permission for 3 dwellings fronting onto Colley End Road in April 2014. This development is tied to the current application by a condition that prevents occupation of the 3 dwellings until the access and car parking spaces, subject to the current application, have been provided and made available for use.

Summary Of Consultation Responses

Strategy and Project Delivery Team /Highways ('Local Highway Authority'): Comments awaited. These will be provided as a late representation.

Environment Agency: No comments to make - recommend consult drainage department. No longer statutory consultee on surface water drainage matters since 15 April 2015. Refer to Standing Advice, as site within CDA - follow SUDS hierarchy, by using infiltration as far as practicable.

Historic England: Comment that they were not consulted on 2009 scheme. Question whether the design is of sufficient quality for a conservation area context. This part of the conservation area has indifferent quality. Advise Council to take into account Para 137 of the NPPF - 'local planning authorities should look for opportunities for new development within conservation areas... to enhance or better reveal their significance.' These issues should be addressed. Recommend application is determined in accordance with national and local policy guidance, and on basis of Council's specialist conservation advice.

Engineering (on behalf of Torbay Council as Lead Local Flood Authority): A sustainable drainage option must be investigated before a decision is made to connect to the main sewer. No details provided in the application of the proposed surface water drainage system. Details of infiltration tests and detailed design of soakaways (if viable) must be provided before planning permission is granted. If ground conditions are not suitable, detailed design of surface water drainage system must be provided with discharge to combined sewer controlled to greenfield runoff rate.

South West Water: Cannot support application as the proposed means of surface water drainage specified on the application is by connection to the public combined sewer which is against South West Water policy. Note that the flood risk assessment references the use of a SUDs system which needs to be fully investigated prior to SWW giving any consideration to a connection of this element to the public sewer. As the site is within Critical Drainage Area, the Council's Engineering department and Environment Agency must be consulted.

Police Architectural Liaison Officer: Recommend the development is constructed to achieve full compliance of Secured by Design. Refuse and bike stores must have no windows and be fitted with a secure door with access only to residents. Car parking spaces should be allocated to prevent conflict over use. Other more detailed comments relating to the building provided.

Arboricultural Officer: The only constraining arboricultural feature is a large mature Cherry tree to the west of the existing car park, which enhances the Conservation Area. Further car parking is proposed beneath the tree and to the west, accessed by a new driveway under the canopy. No supporting tree report submitted. The prominence of the site at the confluence of junctions allied with

the steep local topography offers opportunity for significant tree planting to visually improve what is presently an area of low tree density, whilst breaking up the massing of the proposed building and improving the internal amenities of the scheme. The scheme is suitable for approval on arboricultural merit, however prior to any approval the following should be submitted:

- o Detailed methodology to create a no dig driveway solution and tree protective plan in accordance with B.S.5837:2012 should be submitted, together with Trees in relation to design, demolition and construction - recommendations to be installed prior to any commencement on site.

- o Detailed landscaping plan to including the planting of a number of specimen trees amongst other soft landscaping details.

Natural Environment Services: General comments made regarding biodiversity and greenspace/recreation: Any planning application on, or adjacent to, a greenfield or vegetated brownfield site has potential to impact biodiversity, requiring an Extended Phase 1 Habitat Survey. This will identify whether further protected species surveys are required. Existing features should be incorporated into landscaping proposals. Bird nesting and bat roosting sites should be incorporated into the built fabric if possible. Where no, or limited, greenspace and recreation provision is proposed onsite, a contribution should be sought in accordance with the Planning Contributions and Affordable Housing SPD.

Senior Heritage & Design Officer: Objects - similar to previous scheme that was refused (partly on design grounds) in 2007 and dismissed at appeal in January 2008, however the Inspector considered the design to be appropriate in the context of the Conservation Area. Therefore, subsequent applications were allowed. The policy context has changed since the scheme was last renewed in 2012 - the new Local Plan is due to be adopted and Policy SS10 carries significant weight. Considers the scheme will not sustain and enhance the Conservation Area, contrary to new Local Plan Policy SS10, and it will cause less than substantial harm to the Conservation Area, as it is not subservient to the host historic building and will be highly visible in the street scene. The proposed height and massing are considered inappropriate, and fail to take the opportunities available to improve the character and quality of the area (NPPF Para 64). This principle was supported by the Inspector in the recent Gleneagles appeal. A well proportioned building would make good use of this space and would have the potential to meet Policy SS10 of the new Local Plan. No Statement of Heritage Significance submitted.

Senior Historic Environment Officer: The site has known archaeological potential. A desk based assessment is not required, however standard archaeological condition should be imposed.

Urban Design Officer (Landscape): No response.

Strategy and Project Delivery Team - Energy Matters: No response.

Summary Of Representations

12 objections have been received; 8 of these are from residents of Kirkam Court to the west of the site. The following issues have been raised:

- Scale is overpowering and will dominate area
- Impact on drainage system
- Could increase flooding risks to properties below
- Cramped
- Will block light to neighbouring properties
- Integrity of retaining wall - rear of Redburn Road properties
- Impact on highways - increased traffic/parking
- Impact on privacy of neighbouring properties from overlooking
- Overshadowing
- Design does not take into account Conservation Area
- Insufficient parking
- No space for children to play
- Too large and high
- Will do nothing to improve the character of the neighbourhood
- No guest parking
- Nowhere to park in vicinity of site
- Not in keeping with surrounding properties
- Noise - traffic/parking
- A 50-year old tree will have to be cut down and it will also affect the wildlife in the field
- Too near old wall
- Overdevelop area.

Relevant Planning History

P/2012/0984: Extend time limit - formation of 3 dwellings with altered access drive and pedestrian/vehicular access - application P/2009/0574/PA: Approved 01/04/2014 (NB. This relates to the adjoining site, which shares the proposed access of the current application)

P/2012/0516: Extend time limit - Formation of 12 - 2 bedroom flats with pedestrian/vehicular access (revised scheme) application P/2009/0281/MPA: Approved 04.09.2012

P/2009/0574: Formation of 3 dwellings with altered access drive and pedestrian/vehicular access: Approved 04/09/2009 (NB. This relates to the adjoining site, which shares the proposed access of the current application)

P/2009/0281: Formation of 12 no. 2 bedroom flats with pedestrian/vehicular access (revised scheme): Approved 12/06/2009

P/2008/0560: Formation of 12 no. 1 bedroom flats with pedestrian/vehicular access: Approved 03/07/2008

P/2007/0007: Erection Of 12 No 1 Bedroom Flats With Pedestrian/Vehicular Access; Remedial Works To Existing Building: Refused 06/03/2007. (NB. This application was subsequently dismissed at appeal; however, the Inspector stated in his decision that "the scheme would enhance the character and appearance of the conservation area" and "would provide adequate parking for residents and visitors to the site".)

P/2006/0490/PA: Erection of 12 one bedroom flats: Refused 15/01/2006

P/2004/1131: Planning application for the erection of 3 dwellings with altered access drive and pedestrian vehicular access within the grounds of 1 Southfield Road: Approved 26/08/2004

P/2004/0079: Erection of two houses on land off Colley End Road within the grounds of 1 Southfield Road: Refused 04/03/2004

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
 2. Affordable Housing
 3. Design and Impact on Conservation Area
 4. Amenity Issues
 5. Access and Impact on Highways
 6. Car Parking
 7. Impact on Trees
 8. Biodiversity
 9. Surface Water Drainage and Flood Risk
-
1. The Principle of the Development

At the time of writing this report the development plan comprises the Adopted Torbay Local Plan 1995-2011. The emerging Torbay Local Plan - A landscape for success 2012-2030 is a material consideration, which, since 12 October 2015, has carried significant weight, as it was found to be sound by the Inspector subject to main modifications. The Council will receive a report in December 2015 recommending adoption of the new Local Plan, subject to the main and additional minor modifications. The Council will make a decision whether to adopt the new Local Plan at the Council meeting on 10 December. If it is adopted, it will become the development plan for Torbay and the current Local Plan will no longer apply.

The site is part brownfield, part greenfield. The part of the site where the new

building is proposed is greenfield, as it comprises the grassed, amenity area of an existing block of flats sharing the same access. The NPPF excludes land in built-up areas such as private residential gardens, parks, recreation grounds and allotments from the definition of 'previously developed land' (brownfield). It also excludes land that was previously-developed, but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time. The existing access and parking court are brownfield; however, for the purposes of the application, it is considered that the site should be treated as greenfield, as this is where the new building will be sited. Therefore, the local and national policies promoting the reuse/redevelopment of brownfield land are not considered to apply in this case.

Having stated this, apart from the Conservation Area, there are no designations affecting the site that restrict its development for new housing. It is well located, close to the shops and facilities within Paignton Town Centre, allowing ease of access by sustainable modes of travel, such as walking and cycling (current Local Plan Policies H2 and T1, and new Local Plan Policies SS12 and TA1). Furthermore, the planning history of the site has already accepted that the site can be developed for new housing.

Therefore, the principle of developing the land for new housing is considered by officers to be acceptable.

2. Affordable Housing

Affordable housing was not sought for the previous applications, as the number of flats was below the thresholds set in Policy H6 of the current Local Plan and the Planning Contributions and Affordable Housing SPD. Policy H2 of the new Local Plan lowers these thresholds on greenfield sites. As stated above, the site is to be treated as greenfield, as the new building will be sited on the grassed, amenity area of the existing block of flats; therefore, in accordance with the new Local Plan, 20% affordable housing should be sought.

The application was validated on 4 September 2015. At this point in time, the statutory development plan comprised the current Adopted Local Plan and the new Local Plan was a material consideration with some weight - no objections were received to lowering the affordable housing thresholds. After 12 October 2015, the policies in the new Local Plan carry significant weight, as the plan was found to be sound by the Inspector, subject to main modifications (these modifications do not affect Policy H2 - Affordable Housing); however, the statutory development plan still comprises the current Adopted Local Plan. The Council will decide whether to adopt the new Local Plan on 10 December. If the Plan is adopted, it shall become the statutory development plan for the Bay and Policy H2 will apply.

Notwithstanding the recommendation to refuse the application, taking into

account the shifting policy context above, officers have not sought affordable housing as part of the development during the course of the application. This also takes into account that the 13 week determination date is 5 December 2015. Whilst Members must make the decision, officers consider affordable housing should not be sought in this case. This remains the case if the new Local Plan is adopted, due to the material consideration of the dates stated above.

3. Design and Impact on Setting of Conservation Area

The site is located within and on the edge of the Old Paignton Conservation Area. Therefore, the relevant heritage policies of the current and new Local Plans apply. An application by the same applicant for a slightly smaller, 4-storey block of flats (12 no. 1-bed flats) was refused by the Council in 2007, in part due to its:

"unsympathetic design and appearance which would make it out of keeping with the long-established layout of this part of the town, would detrimentally impact upon the Old Paignton Conservation Area within which it sits, and the street scene in general, and would have a poor relationship with the historic church next door."

Whilst the subsequent appeal was dismissed, the Inspector stated that the scheme 'would enhance the character and appearance of the conservation area'. The Inspector considered that the sloping, grassland area on which the building would be sited 'provides limited visual benefit to the locality and, due to its topography, limited recreational value to the existing block of flats.' The Inspector went on to state that the building would:

"positively relate, in terms of height and scale, to the existing building to the east and would be orientated to take reasonable advantage of the southern aspect and to respect the arc of the lower highway and the immediately adjacent buildings. The proposed design would represent a reasonable development density and a contemporary interpretation of a substantial 'villa' with sufficient articulation within its front elevation to alleviate the overall mass of the structure in a manner that would enhance the immediate mediocrity of its current surroundings."

As this appeal decision was a material consideration carrying a high degree of weight at the time, the subsequent planning applications made for the same/similar buildings in 2008/2009 were approved.

The appeal decision was made in January 2008 at which time the relevant planning policy context comprised: the current Adopted Local Plan; the Urban Design Guide SPD (May 2007); chapters 13-19 of the Environmental Guide SPG (Sept 2004); and national advice contained within various PPGs/PPSs. This national advice has now been abolished and replaced by the NPPF. The Inspector did not reference the Urban Design Guide SPD in his decision and

instead referenced the Environmental Guide SPG, which appears to have been an oversight.

The current planning policy context comprises: the current Adopted Local Plan; the emerging new Local Plan, which carries significant weight since 12 October 2015; the Urban Design Guide SPD (May 2007); chapters 13-19 of the Environmental Guide SPG (Sept 2004); and national policies and advice contained within the NPPF and online Planning Practice Guidance (PPG) respectively. A recent appeal decision (APP/X1165/W/15/3006520) received on 12 November 2015 to dismiss a block of flats on the Gleneagles Hotel site affecting the setting of an adjacent conservation area is a material consideration. The Inspector in this case stated that the Urban Design Guide SPD is a material consideration of significant weight. He also stated that the design and heritage policies of the new Local Plan can be afforded significant weight. He went on to state that whilst the relevant Built Environment policies of the current Local Plan still form part of the development plan, 'these were adopted some 11 years ago and whilst there is a large degree of consistency with the Framework [NPPF], there is evidently now a greater focus on taking opportunities to improve the character and quality of an area.'

An application to extend the time limits to implement planning permission P/2009/0281 was approved in September 2012. This took into account the policies in the NPPF. It also took into account national guidance within 'Greater flexibility for planning permissions' (CLG, Oct 2010) stating that 'local planning authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.' This guidance was cancelled in 2014 and replaced by the online PPG.

The Senior Heritage and Design Officer has objected to the application highlighting the significance of Policy SS10 of the new Local Plan as a new material consideration. This policy requires development to sustain and enhance heritage assets, including conservation areas, which make an important contribution to Torbay's built and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay. It goes on to state that proposals that may affect heritage assets will be assessed on a range of criteria, including 'The need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, while allowing sympathetic development within them' and 'Whether new development contributes to the local character and distinctiveness of the area, particularly through a high quality of design, use of appropriate materials, or removal of deleterious features'. The Senior Heritage and Design Officer considers that the scheme will not sustain or enhance the Conservation Area, but considers that the harm that will be caused is 'less than substantial'. In these cases, paragraph 134 of the NPPF states that 'this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The Senior Heritage and Design Officer notes that Historic England (the statutory consultee for development that

would affect the character and appearance of a conservation area where the development involves the erection of a new building or the extension of an existing building, and the area of land in respect of which the application is made is more than 1,000 sq m (PPG - Para 57)), has raised similar concerns with the proposal. In their response, Historic England encourages the Council to consider the advice within paragraph 137 of the NPPF, which states that 'Local planning authorities should look for opportunities for new development within Conservation Areas... to enhance or better reveal their significance.'

Whilst not quoted by the Senior Heritage and Design Officer, Policies DE1 and DE4 of the new Local Plan are also considered to be material considerations. Policy DE1 emphasises the importance of local distinctiveness in design, and Policy DE4 states that new development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban design or socio-economic benefits to deviate from this approach. It is considered that there is nothing in the design that acknowledges the distinctive features of the Conservation Area. The Urban Design Guide SPD is an important material consideration and states that 'Designers should use local materials, building methods and details where appropriate to help to enhance local distinctiveness' (Para A6). In terms of the height, whilst the proposed building is the same height as the existing building on the site, this is not the prevailing height of the locality which is 2-3 storeys. Officers consider that there are no sound urban design or socio-economic benefits that justify the height of the proposal. It is considered that the new building should be subservient in height to the existing 'host historic' building adjoining the site. The Urban Design Guide SPD states that 'Designers should consider the scale, massing and height of proposed development in relation to that of adjoining buildings; the topography; the general pattern of heights in the area; and views, vistas and landmarks' (Para A7).

As can be seen, this issue is finely balanced when taking into account all the material considerations above, including the new policies and previous decisions. It is clear that the Inspector for the 2007 appeal had a different view to the Council's conservation specialist of the effect of the scheme on the character and appearance of the Conservation Area. Whilst the appeal decision was made in January 2008 and the Inspector considered that the scheme would enhance the character and appearance of the Conservation Area, the planning policy context has changed since this time, including publication of the NPPF and emergence of the new Local Plan. The main change to the policy context since this time with regards to design and heritage issues is the greater emphasis on enhancement and taking the opportunities available to improve the character and quality of an area. It is clear that the Inspector believed this will be the case. However, officers are mindful that the scheme has not gone before Torbay's independent Design Review Panel, as endorsed by the NPPF (Para 62), and Historic England has raised concerns; in addition HE state that they were not consulted on the original 2009 application. Therefore, officers consider the application should be refused,

as it is considered that it will not sustain or enhance the character of the Conservation Area, contrary to Policies BES and BE5 of the current Local Plan, and Policy SS10 of the new Local Plan. It is also considered that it has failed to take the opportunities available for improving the character and quality of the area (NPPF Para 64), and the proposed design does not contribute to the distinctiveness of the area (current Local Plan Policy BES and new Local Plan Policies SS10 and DE1). It also does not follow the lower prevailing building height of the locality (new Local Plan Policy DE4).

Officers consider the scheme will cause 'less than substantial harm' to the Conservation Area. Paragraph 134 of the NPPF requires this to be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case, officers do not consider that there are any public benefits of the scheme that would outweigh this harm. Whilst the delivery of new dwellings is a positive impact, there is no reason why an alternative, lower density scheme which does not cause harm to the character and appearance of the Conservation Area could not be developed on the site with similar benefits.

Officers took a different view when the application to extend the time limits to implement planning permission P/2009/0281 was approved in September 2012. At this time, officers considered that the scheme would not have a significant impact on the Conservation Area, taking into account Section 12 of the NPPF. However, this pre-dated the appeal decision for the Gleneagles Hotel, which is a material consideration, and the emerging policies of the new Local Plan. It also took into account guidance at the time, encouraging local planning authorities to take a positive approach towards 'extend the time limit' applications which improve the prospect of sustainable development being taken forward quickly. This has not happened in this case, as the scheme remains unimplemented.

4. Amenity Issues

The issues of overlooking and overshadowing have been raised as concerns by a number of local residents, particularly those living at Kirkham Court to the west. There are a number of windows on the west elevation of the proposed building, including 'habitable rooms', such as bedrooms and living rooms.

Officers are mindful that this issue was assessed for the previous applications and has not been raised as an issue by the Council before. Therefore, it is considered that the proposal will not have an adverse impact on the amenities of neighbouring properties, in terms of overlooking or overshadowing.

Policy DE3 of the new Local Plan deals with development amenity. It states that 'All development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses.' Relevant criteria when assessing amenity issues include: 'Satisfactory provision for off-road motor vehicle parking, bicycles

and storage of containers for waste and recycling' and 'Provision for useable amenity space, including gardens and outdoor amenity areas'.

Whilst a refuse bin area is proposed adjacent to the new building, officers are mindful that occupiers of the flats will need to carry waste and recycling bins to the street for collection, as a refuse vehicle is unlikely to be able to access the site and turn through 180 degrees to exist the site safely. Whilst there is little to be done in this regard and of itself this should not prevent the site from being developed, it is considered that the proposals should provide space near the site entrance for waste and recycling containers to be stored.

In terms of the provision of useable amenity space, whilst the existing grassed area is sloping, it provides a relatively large area for the occupiers of the existing flats to use for recreation purposes or to dry clothes etc. Whilst some space will be left over behind the proposed new building, officers do not consider that this will be enough to serve the amenity needs of both buildings. This issue should form part of the rationale for a revised design on the site.

5. Access and Impact on Highways

Comments are currently awaited from Strategy officers regarding the impacts of the development on the highway network and the proposed new access. These will be reported to Members as a late representation. However, these issues were assessed previously as part of the earlier applications and found to be sound.

6. Car Parking

The proposed level of car parking provision is considered by officers to be acceptable. 1:1 parking is proposed for the existing and new flats, and three spaces will be provided for the adjoining development site of three dwellings fronting Colley End Road. This level of provision accords with Policy T25 of the current Local Plan. It accords with Policy TA3 of the new Local Plan, except provision is not made for commercial vehicles.

7. Impact on Trees

There is a mature Cherry tree on the site to the west of the existing car park. Officers consider this to be an attractive feature of the site that should be retained and protected. The Council's Arboricultural Officer considers the scheme is suitable for approval on arboricultural merit provided this tree is protected during construction and additional tree planting is provided as part of detailed landscaping proposals. These matters can be dealt with by condition if the application is approved.

8. Biodiversity

Whilst the Green Infrastructure Coordinator has questioned whether an Extended Phase 1 Habitat Survey should be submitted, as the site comprises an area of short amenity grassland and parking court, officers did not consider that this was a requirement when the application was submitted.

No information has been provided to show how biodiversity will be enhanced on the site in accordance with the NPPF and Policy NC1 of the new Local Plan. Given the planning history of the site, officers consider this could be dealt with by condition if the application is approved, such as the incorporation of bird nesting and bat roosting sites into the built fabric of the building, and additional plantings as part of detailed landscaping proposals.

9. Surface Water Drainage and Flood Risk

Since the previous applications were determined, the majority of land in Torbay has been designated a Critical Drainage Area (CDA) by the Environment Agency. Detailed drainage proposals must now form part of planning application submissions accordingly. These should investigate the practicality of sustainable drainage systems as a first priority, by undertaking infiltration testing of ground conditions on the site.

In this case a Flood Risk Assessment (FRA) has been submitted. It states that 'The potential for adding to flood potential elsewhere in the town is significant and must be addressed prior to work starting on site. Sustainable drainage systems must be incorporated which will include the use of soakaways, self draining paving and soft landscaping to eliminate the potential for surface water to leave the site.' No further details are provided, including details of any infiltration testing of the site.

The FRA states that 'percolation tests will need to be undertaken in the areas likely to take any such soakaways and this is presently not possible due to existing use of the land...' It goes on to say this should be covered by planning condition. No further information or justification is provided why infiltration testing cannot be carried out before planning permission is granted. Having visited the site, officers do not see any practical reason why infiltration testing cannot be carried out.

Therefore, officers consider that insufficient information has been provided to demonstrate that the proposal will not result in downstream flooding within the CDA. The application should therefore be refused in accordance with Policy EPS of the current Local Plan, Policy ER1 of the new Local Plan, and paragraphs 102 and 103 of the NPPF

S106/CIL - The contributions for the application are set out below, in accordance

with Adopted Local Plan Policy CF6, new Local Plan Policies SS7 and the adopted Planning Contributions and Affordable Housing SPD and its Update 3.

Waste Management (Site Acceptability) =	£600
Sustainable Transport (Sustainable Development) =	£20,640
Education (Sustainable Development) =	£4,920
Lifelong Learning (Sustainable Development) =	£2,640
Greenspace and Recreation (Sustainable Development) =	£13,440
TOTAL =	£42,240

Justifications:

The waste management contribution is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policy W1. It will pay the costs of providing waste and recycling bins to the dwellings.

The sustainable transport contribution is justified in paragraphs 4.12-4.24 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and TA2. It will be used to pay for sustainable transport network enhancements in the local area for use by future occupiers/visitors of the proposed development.

The education contribution is justified in paragraphs 4.40-4.46 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards funding projects at schools in Paignton as part of Children's Services Capital Programme. The dwellings will place additional demand on local schools and the contribution will ensure local schools are provided with funding to mitigate the proposed development.

The lifelong learning contribution is justified in paragraphs 4.47-4.51 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards the cost of improving provision at Paignton Library, including IT equipment. The dwellings will place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The greenspace and recreation contribution is justified in paragraphs 4.52-4.58 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS9. It will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings will place additional demand on these facilities and the contribution will ensure these

facilities are provided with funding to mitigate the proposed development.

Status:

As officers are recommending refusal of the application, Legal Services has not been instructed to prepare a s106 agreement.

Conclusions

The principle of developing the site for housing is considered to be acceptable. However, notwithstanding the planning history of the site where applications for the same or similar development have been approved, officers consider the design of the proposed development to be unacceptable and would harm the character and appearance of the Conservation Area. The design lacks distinctiveness and the height does not fit in with the prevailing height of buildings in the area. It is considered that the benefit of providing new housing on the site does not outweigh the harm to the Conservation Area, as a result of the poor design. A lower density development could provide similar benefits without harming the character of the Conservation Area. Furthermore, it is considered that there is limited useable amenity space in the proposal to serve residents of the proposed flats and the existing flats adjoining the site. Therefore, the application should be refused in accordance with Policies BES, BE1 and BE5 of the current Adopted Local Plan, and Policies SS10, DE1, DE3 and DE4 of the new Local Plan.

In addition, insufficient information has been provided with the application to demonstrate that the proposal will not result in downstream flooding within the Critical Drainage Area. Furthermore, there is a lack of detail and justification within the submitted Flood Risk Assessment why infiltration testing of the site cannot be carried out before the application is determined in order to investigate whether a sustainable drainage system is feasible in accordance with local and national guidance. Therefore, the application should be refused in accordance with Policy EPS of the current Adopted Local Plan, Policy ER1 of the new Local Plan and paragraphs 102 and 103 of the NPPF.

If Members consider that the application should be approved, a s106 legal agreement will need to be prepared to secure necessary contributions to mitigate the impact of the proposal on local infrastructure. In addition, the drafting of appropriate planning conditions should be delegated to officers. Depending on the status of the new Local Plan, Members will also need to decide whether affordable housing should be sought in accordance with Policy H2 of the new Local Plan, although officers consider that there are material considerations in this case not to do so.

Condition(s)/Reason(s)

01. The proposed development will not preserve or enhance the character of

the Conservation Area contrary to Policies BES and BE5 of the Adopted Torbay Local Plan 1995-2011, and Policy SS10 of the emerging Torbay Local Plan - A landscape for success 2012-2030. It fails to take the opportunities available for improving the character and quality of the area in accordance with paragraph 64 of the NPPF. The proposed design is not distinctive to the character of the area contrary to Policy BES of the Adopted Torbay Local Plan 1995-2011 and Policies SS10 and DE1 of the emerging Torbay Local Plan - A landscape for success 2012-2030. The proposal does not fit in with the prevailing building height of the locality contrary to Policy BE1 of the Adopted Torbay Local Plan 1995-2011 and Policy DE4 of the emerging Torbay Local Plan - A landscape for success 2012-2030. The benefits of the proposal do not outweigh the impacts of the scheme on the character of the Conservation Area. Furthermore, the level of useable amenity space is considered inadequate for the occupiers of the proposed flats and the existing flats adjoining the site contrary to Policy DE3 of the emerging Torbay Local Plan - A landscape for success 2012-2030.

02. There is a risk the proposal will result in downstream flooding from an increase of impermeable area on the site. The site is within the Critical Drainage Area and no details have been provided with the application to demonstrate that this will not be the case. The Flood Risk Assessment lacks adequate detail and justification why infiltration testing cannot be carried out to investigate whether a surface water drainage system is feasible on the site. Therefore, the proposal does not accord with Policy EPS of the Adopted Torbay Local Plan 1995-2011, Policy ER1 of the emerging Torbay Local Plan - A landscape for success 2012-2030, or paragraphs 102 and 103 of the NPPF.
03. No s106 agreement has been prepared to secure the necessary contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011 and Policy SS7 of the emerging Torbay Local Plan - A landscape for success 2012-2030.

Relevant Policies

HS - Housing Strategy

H2 - New housing on unidentified sites

H9 - Layout, and design and community aspects

H10 - Housing densities

H11 - Open space requirements for new housing

CFS - Sustainable communities strategy

CF2 - Crime prevention

CF6 - Community infrastructure contributions

W7 - Development and waste recycling facilities
L9 - Planting and retention of trees
L10 - Major development and landscaping
NCS - Nature conservation strategy
EPS - Environmental protection strategy
BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
BE5 - Policy in conservation areas
TS - Land use transportation strategy
T1 - Development accessibility
T2 - Transport hierarchy
T25 - Car parking in new development
T26 - Access from development onto the highway
SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS7 - Infrastructure, phasing and employment
SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low Carbon and Climate Change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
NC1 - Protected sites - internationally import
H1 - New housing on identified sites
H2 - New housing on unidentified sites
DE1 - Design
DE2 - Building for life
DE3 - Development Amenity
DE4 - Building heights
SC1 - Healthy Bay
ES1 - Energy
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities

Application Number

P/2015/0927

Site Address

Brookfield House
Brookfield Close
Paignton
Devon
TQ3 2JE

Case Officer

Mr Alexis Moran

Ward

Preston

Description

Construction of multi-use games area, car park and formation of access adjacent to Torbay School on site of Brookfield House, Paignton

Executive Summary/Key Outcomes

The application seeks permission for the addition of a car parking area, a multi-use games area (MUGA) and a lightweight timber walkway between the proposed MUGA and Torbay School. The site is to be accessed from Brookfield Close with the MUGA being located in place of the existing Brookfield House which is to be demolished. The demolition of Brookfield House is not to be determined as part of this application.

The MUGA will be enclosed by a 4m perimeter fence and will include a 3G artificial surface. The new parking area provides an additional 19 spaces for staff and visitors. The new access between the car park and MUGA area and the school is to be of timber construction.

The proposal is considered to comply with the Policy SC3 (Education, skills and local labour) of the new Torbay Local Plan Local Plan "A landscape for success" 2012- 2030 and beyond and Policies CFS & CF10 of the saved adopted Torbay Local Plan 1995-2011 regarding improvements to the infrastructure and facilities of educational establishments.

The relationship in terms of privacy and neighbour amenity is considered to be acceptable, subject to the imposition of conditions limiting the times of use of the MUGA to within school hours.

This application is submitted because Torbay Council anticipate relocating Torbay School to another site in the Torbay area which would allow the conversion of the existing school buildings to primary school use.

Recommendation

Conditional approval; suggested conditions are listed at the end of this report.

Statutory Determination Period

This application has an 8 weeks determination period which expires on 03.12.2015. The applicant has agreed to an extension of time.

Site Details

The site relates to Brookfield House, a purpose built building of flats which is adjacent to Torbay School and at the end of a cul-de-sac (Brookfield Close). The site is no longer occupied.

Detailed Proposals

The application seeks permission for the construction of multi-use games area (MUGA), car park and formation of an access adjacent to Torbay School on site of Brookfield House, Paignton. The MUGA will be enclosed by a 4m perimeter fence and will include a 3G artificial surface. The new parking area provides an additional 19 spaces for staff and visitors.

A prior notification had previously been submitted to the Council for the demolition of Brookfield House, it was determined that a prior approval for the demolition was not required.

Summary Of Consultation Responses

Highways: No objection

Strategic Transport: The existing entrance to Torbay School is very poor, and using Brookfield Close represents a significant improvement. Because the proposal increases the provision of parking, a Staff Travel Plan should be prepared. This should set out measures to encourage walking, cycling and public transport, set out cycle parking and shower facilities and indicate senior member of staff as a travel plan coordinator. Secure and covered cycle parking should be provided on site.

Green Infrastructure Coordinator: No objection subject to confirmation that the trees to be removed do not have potential for roosting bats should be provided prior to determination. The applicant is in the process of obtaining this.

Birds and bat boxes should be provided in suitable retained trees and details showing the location, number and type of boxes should be secured by condition.

Detailed design plans of the MUGA will be required prior to commencement of

development and should be conditioned.

Senior Environmental Health Officer. No objection subject to a condition which restricts the hours of use and ensures that the MUGA is only used for school activities.

Arboricultural Officer. The proposal is acceptable subject to the works being undertaken in compliance with the methodologies included in the arboricultural report and the submission of a detailed landscaping plan via a condition.

Drainage Engineer. The development is acceptable subject to a surface water drainage condition being added requiring details of a soakaway which shall be submitted and approved prior to the commencement of construction works on site.

Summary Of Representations

One letter of representation has been received in relation to this application, the key issues raised are:

- Loss of light
- Increase in noise
- Loss of privacy

This letter has been sent electronically for Members consideration.

Relevant Planning History

DE/2015/0298 Construction of multi-use games area, car park, playground and formation of access; the applicant was advised that the principle of the development would be acceptable 06.08.2015

P/2015/0232 Demolition of flats and adjacent building - prior notification determined that a prior approval for the demolition was not required 22.05.2015

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Design & Layout
3. Access
4. Impact on Amenity
5. Impact on TPO Trees

1. The Principle of the Development

The principle of the development is considered acceptable. Policy SC3 of the Composite new Torbay Local Plan Local Plan "A landscape for success" 2012-2030 and beyond and Policies CFS & CF10 of the saved adopted Torbay Local Plan 1995-2011 which support educational infrastructure in principle and 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 4. These will be discussed in more detail below. Criterion 3 is not considered to be as relevant as the proposal will not be in place of an existing playing field.

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."

It is anticipated that Torbay School (adjacent to Brookfield House) will be relocated to another site within Torbay to allow the conversion of the existing buildings to a primary school. The proposed development is needed to meet playground space requirements for such a change which is required for the growing demand for primary school places within Paignton. The MUGA provides a cost-effective solution for the school insofar as it provides for a wide range of sporting demands within a small space. Given the restrictions of the site, being within an urban area surrounded by development, its addition overcomes issues of providing separate facilities. It is considered that the site can satisfactorily

accommodate the MUGA and the parking area on the site in accordance with Policy CF10.2.

2. Design & Layout

The design and siting/layout of the MUGA, which is to be surrounded by a 4m high fence, is somewhat fixed by the nature of the form of the games area and of the site. However it is not considered that the MUGA would be overdominant or highly visible in the streetscene particularly when considering that it will be replacing a 3 storey residential building. Views of the MUGA can be improved by a suitable landscaping plan which can be secured by condition.

It is considered that the car park area is located in the most suitable location. The access from the car park and MUGA is to be through a lightweight timber walkway which meanders through the existing trees providing a pleasant route to the school.

Thus, the design and layout of the proposal is considered to be appropriate and that the proposal accords with Policies SC3 and DE1 of the Composite Torbay Local Plan Local Plan "A landscape for success" 2012- 2030 and beyond and Policies CF2, BES and BE1 of the saved adopted Torbay Local Plan.

3. Access

Highways have no technical issues with the proposal and Strategic Transport have confirmed that the revised access via Brookfield Close represents a significant improvement to the very narrow access adjacent to the school which is currently used. The proposal includes a car park with 19 additional spaces for staff and visitors.

This is likely to result in an increase in vehicle movements to and from the site than is presently the case with the flats. However this is only likely to be at the beginning and end of the school day and not late in the evenings or at weekends.

4. Impact on Amenity

The starting point when considering the impact the proposal would have on the amenity of residential neighbours must be that the proposed MUGA and car park are in place of a three storey residential block of flats. The proposal must therefore result in a significant reduction in overdominance and overlooking.

The access, parking and in particular the MUGA, are likely to result in an increase in noise and disturbance however this will only be on week days and during school hours. The applicant has stated that the MUGA will only be used during school times and under supervision. It is however considered that a condition limiting hours of use and the use of lights should be added to ensure that the impact on residential amenity is limited. A condition regarding the submission of a landscaping plan which would include planting along the boundaries with residential properties would aid in reducing any potential visual impact as well as providing a barrier to noise.

It is not considered that the access between the car park and MUGA and the school would cause a significant impact on the amenity of the adjacent neighbouring property (60 Upper Morin Road).

Bearing the above points in mind it is considered that the proposal would have an acceptable impact on the privacy and amenity of neighbouring properties particularly if relevant conditions were also added.

5. Impact on Trees

The proposal includes the loss of some trees which are considered to be of a poor quality and which are not protected by TPO's. One sycamore is to be removed; this will need to be mitigated by additional planting. The impact on trees is considered to be acceptable provided that the supporting arboricultural report, its plans and included methodologies are conditioned and enacted throughout the development and that a detailed landscaping plan is conditioned to be submitted.

S106/CIL -

Not applicable in this instance.

Conclusions

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

This is subject to the following conditions:

- Details of boundary treatment and implementation of approved boundary treatment
- Works to be undertaken in strict accordance with the approved arboricultural report, plans and mitigation
- Details of landscaping
- Landscaping implementation and retention
- Drainage details to be provided including result of infiltration tests in accordance with BRE 365 at the locations and invert levels of the proposed soakaways and soakaway design to show that the proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance for climate change
- Restrictions on times of use and the lighting of the MUGA
- Restriction to ensure the MUGA is solely used by the school and its pupils
- The submission of a staff travel plan
- Details of location, number & type of boxes to house bats and birds
- Detailed plans of MUGA to be submitted

Relevant Policies

-

Agenda Item 9

Application Number

V/2015/0004

Site Address

Land West Of
Brixham Road
Paignton
Devon
Torbay

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Variation of S106 for P/2011/0197 - Alignment of woodland walk

Executive Summary/Key Outcomes

This proposal is to change the route of the woodland walk that was approved as part of the Landscape and Ecological Management Plan (LEMP) for the White Rock development. The revised route will be along existing field boundaries which will improve agricultural efficiency of surrounding land.

The application site relates to the White Rock site which is a 39 hectare plot of land bound to the east by Brixham Road and to the north in part by buildings off Long Road and in part by Long Road itself. The southern boundary of the site also comprises the Authority boundary between Torbay and South Hams. There are a number of buildings to the east of the site and recently constructed road infrastructure. A number of houses have already been built within the eastern part of the site adjacent to Brixham Road.

This application is for a variation of the section 106 in respect of planning application P/2011/0197 which granted outline consent for up to 350 homes, approximately 36,800m² gross employment floorspace, a local centre together (comprising a food store of up to 1,652m² gross, 392m² A1/A3 use and student accommodation) together with associated infrastructure and landscape works (including 15ha of open space and a sports pavilion). The section 106 (together with condition 10 of the planning permission) necessitated submission of a Landscape and Ecological Management Plan (LEMP). The LEMP was approved as part of a discharge of condition application to discharge condition 10 on the 28th January 2014.

The proposal will maintain provision of the woodland walk albeit to an amended route. The variation of the section 106 agreement is considered acceptable and will continue to provide sufficient public access to the countryside in line with policy SS9 (Green infrastructure) of the New Torbay Local Plan 2012-2030. This recommendation however is subject to the submission of additional

information clarifying the route and whether it would result in additional breaks in the hedgerows.

Recommendation

That the terms of the S106 agreement be revised in respect of the amended woodland walk route subject to the submission of a plan to clearly illustrate the proposed route and clarification as to whether additional breaks in the hedgerows will be required. The revised S106 agreement to be completed within 3 months from the date of this committee

Statutory Determination Period

8 weeks, the determination date is the 19th December 2015.

Site Details

The application site relates to a 39 hectare plot of land bound to the east by Brixham Road and to the north in part by buildings off Long Road and in part by Long Road itself. The southern boundary of the site also comprises the Authority boundary between Torbay and South Hams. There are a number of buildings to the east of the site and recently constructed road infrastructure. A number of houses have already been built within the eastern part of the site adjacent to Brixham Road.

The site comprises two topographical 'bowls' one to the west and one to east of the site, with higher ground towards the centre of the site. To the south and west are a number of wooded areas; Waddeton Road, Plantation, Shopdown Copse and Peter's Copse. A number of hedgerows cross the site.

The eastern section of the site is allocated in the New Torbay Local Plan 2012-2030 as a committed development site. The remainder of the site is designated as countryside zone with an area designated specifically as a proposed country park, countryside access or enhancement scheme and as a potential development site for consideration within the Neighbourhood Development Plan for employment investment.

Detailed Proposals

This application is for a variation of the section 106 in respect of planning application P/2011/0197 which granted outline consent for up to 350 homes, approximately 36,800m² gross employment floorspace, a local centre together (comprising a food store of up to 1,652m² gross, 392m² A1/A3 use and student accommodation) together with associated infrastructure and landscape works (including 15ha of open space and a sports pavilion). The section 106 (together with condition 10 of the planning permission) necessitated and secured the production of a Landscape and Ecological Management Plan (LEMP) to mitigate for potential impacts arising and specifically to provide and secure necessary landscape planting in the long term. The application to vary the section 106 agreement is submitted for amendments to be made to the approved LEMP. The

LEMP was approved as part of a discharge of condition application to discharge condition 10 on the 28th January 2014.

The LEMP provides details of a number of proposals that will enhance the landscape character of the site including provision of a woodland walk. The proposed variation to the section 106 agreement relates to the woodland walk with the remainder the proposals with the LEMP remaining as previously approved. The amendment to the woodland walk results in the footpath moving northwards along Waddeton Road before turning westward along the northern field boundary. The start points of the Woodland Walk within the White Rock development remain as previously approved.

The amendment to the Woodland Walk has been sought to ensure the land adjacent to the route can continue to be farmed in an efficient manner.

Summary Of Consultation Responses

Green Infrastructure Co-ordinator: The supporting letter describes the original route as being "located on land beyond the southern boundary of the site. To the east of the route, it enters an area of proposed woodland planting and moves in a westerly direction towards Waddeton Road, whereupon it follows the route of the road in a south westerly direction. After a short distance the route leaves the road in a north westerly direction. After a short distance the route leaves the road in a north westerly direction through a further area of proposed woodland planting before re-entering the site in the vicinity of an area broadly referred to as the western bowl."

The proposed route is described as "being centred on the western extent and is limited to a change which results in the footpath following a short section of Waddeton Road in a north easterly direction (rather than south westerly) before turning west around the northern field boundary towards the western Bowl."

It is considered that the original proposal, as shown on Drawing 40158/SK/515, is not as described above. The proposal was for a crossing of the Waddeton Road and then onward travel (in a south-westerly direction) within the field boundary on the opposite side of the road rather than along the road itself. This is clarified in paragraph 4.12 of the approved 'LEMP - Off-Site Woodland and Hedgerows' prepared by Ecosulis which states: "Cycling would not be encouraged due to frequent breaks in the route and the crossing point over Waddeton Road....."

For safety purposes, and to ensure a more enjoyable walk for future residents of the development, the new proposal will only be considered suitable if the proposal is for a crossing point of Waddeton Road and onward travel within the field boundary on the opposite side of the road. It is noted that this new route makes less use of the newly proposed woodland planting. However it will be accepted if deemed necessary to allow the land to continue to be farmed in an efficient manner subject to the route being inside the field boundary as described

above.

Natural England: Agree with the comments of the Green Infrastructure Co-ordinator

Natural Environment Officer: Agree with the comments of the Green Infrastructure Co-ordinator.

Arboricultural Officer: There are no arboricultural constraints present providing the path formation does not alter the root protection areas. No comment is necessary.

Summary Of Representations

None received.

Relevant Planning History

P/2011/0197 Outline application for up to 350 homes, approximately 36,800m² gross employment floorspace, a local centre together (comprising a food store of up to 1,652m² gross, 392m² A1/A3 use and student accommodation) together with associated infrastructure and landscape works (including 15ha of open space and a sports pavilion) APPROVED 29.04.2013

Key Issues/Material Considerations

The relevant considerations are the impact of the proposed amendment on access to the countryside.

The original LEMP noted that the proposal offered pedestrian links between the new urban areas and the adjacent countryside where currently access opportunities are limited. The Woodland Walk was planned to promote access to the countryside. The development proposal will continue to provide a woodland walk as proposed within the original LEMP.

Policy SS9 (Green Infrastructure) of the New Local Plan 2012-2030 seeks to integrate new development with strategic green infrastructure and to protect and provide high quality green space at a local level. It goes on to state that developments will be assessed against their ability to deliver high quality green infrastructure or contribute to the enhancement of the green infrastructure network. The proposal continues to be compliant with the aims and objectives of policy SS9 although it is noted that the amended route will make less use of the proposed new woodland planting. The justification for the amended route in terms of the efficient agricultural use of the surrounding land is noted. On balance, having considered the continued provision of the woodland walk albeit to an amended route and the need to ensure the effective use of the best and most versatile agricultural land (in line with policy SC4 of the New Torbay Local Plan 2012-2030), the variation of the section 106 agreement is acceptable and will continue to provide sufficient public access to the countryside in line with

policy SS9 of the New Torbay Local Plan 2012-2030. This recommendation however is subject to the submission of a plan that clearly illustrates that the new route would move northwards within the field boundary and clarification regarding whether the new route requires additional breaks in the hedgerows.

S106/CIL - The terms of the section 106 agreement in relation to the woodland walk be amended to refer to the amended route.

Conclusions

On balance, having considered the continued provision of the woodland walk albeit to an amended route and the need to ensure the effective use of the best and most versatile agricultural land (in line with policy SC4 of the New Torbay Local Plan 2012-2030), the variation of the section 106 agreement is acceptable and will continue to provide sufficient public access to the countryside in line with policy SS9 of the New Torbay Local Plan 2012-2030. This recommendation however is subject to the submission of a plan that clearly illustrates that the new route would move northwards within the field boundary and clarification regarding whether the new route requires additional breaks in the hedgerows.

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

SS9 - Green Infrastructure

SC4 - Sustainable food production

Application Number

P/2015/0897

Site Address

101 Braddons Hill Road East
Torquay
Devon
TQ1 1HF

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Description

Demolition of existing warehouse, and construction of 9 two storey dwellings with 9 car parking spaces. Variation of conditions 1 and 3 of planning approval P/2015/0320 to allow more extensive demolition of stone boundary wall fronting Museum Road to create vehicular and pedestrian access.

Executive Summary/Key Outcomes

This application is to vary conditions 1 and 3 pursuant to P/2015/0320 for the construction of 9 dwellings on this Depot site to permit a greater level of demolition to be carried out in relation to a substantial stone boundary wall fronting Museum Road.

The DMC meeting of 10th August 2015 resolved to approve this application subject to conditions and the conclusion of a S106/Unilateral Obligation to secure waste and highway/sustainable transport contributions at.

Condition 1 relates to the schedule of approved plans and 3 controls the extent of demolition that can be carried out.

The site is within the Torquay Harbour Conservation Area and adjacent to the listed Museum.

A sensitive aspect of the approved scheme was the partial demolition of a substantial stone boundary wall which borders the site along Museum Road to create a new vehicular access to the site.

Condition 3 was imposed to ensure that demolition was kept to a minimum necessary to provide safe vehicular access. This was imposed in view of the attractiveness of this as a feature in the street scene and its position adjacent to the listed Museum building

The new vehicular access was to sought to provide a more prestigious and attractive entrance to the site and to replace the existing narrow and somewhat tortuous back access from Braddons Hill Road East.

In carrying out further works to the wall and stripping away the ivy it has emerged

that the wall is in a poor structural state and a greater level of demolition or expensive strengthening works/reconstruction is required to ensure long term stability.

This has been confirmed by a structural Engineer who has submitted a detailed report into the state of the wall.

It is proposed therefore to vary condition 1 to include revised approved plans (which will show the wall retained but to a lower level than before) and to vary condition 3 relating to the scale of demolition to conform to the submitted plan.

Recommendation

That (i) condition 1 be varied to allow the inclusion of revised plans which show the wall reduced in height and (ii) condition 3 be varied to allow demolition sufficient to achieve this subject to receipt of a detailed plan, acceptable to Head of Spatial Planning which clarifies the precise extent of the demolition.

Statutory Determination Period

The application should be determined by the 25th November 2015. It will not be approved 'in time' due to the timing of the Committee.

Site Details

The site comprises a furniture storage/removals depot located to the rear of Torquay Museum and the Living Waters Church both of which are Grade II listed. It is also within the Torquay Harbour Conservation Area. The site is currently occupied by a large pitched roof single storey storage shed with a 2 storey wing of a similar height. It is of no intrinsic architectural or historic merit and is set in a hard surfaced yard.

The site is served by a vehicular access onto Braddons Hill Road East.

The site is currently tucked from public view; it is set at a lower level than surrounding buildings and along Museum Road the site is bounded by a distinctive random natural stone boundary wall of approximately 2-3 m in height. This is a prominent feature in the streetscape particularly given its relationship to the side elevation of the listed Museum and Pengelly Hall.

The site is bound internally on three sides by natural stone walls of varying heights and historic interest.

Detailed Proposals

This application is to vary the condition 1 and 3 pursuant to P/2015/0320.

Condition 1 relates to the schedule of approved plans and if the wall is reduced in height, this schedule will require amendment.

Condition 3 confines the extent of demolition to that required provide a safe vehicular access only.

Summary Of Consultation Responses

Conservation Officer: Whilst the retention of the wall would be preferable if it is shown to be unsound and beyond economic repair then no objection raised to the revised scheme.

Summary Of Representations

There have been 16 letters of objection to the reduction in the height of the wall. There is a broad split of opinion between those who question the need for it to be reduced rather than repaired or underpinned, who consider there is insufficient detail about the final height of the wall and who have concerns about impact on bats.

Those who support the application consider it will remove an eyesore.

Relevant Planning History

P/2015/0320: Demolition of Depot and construction of 9 dwellings: Approved

Key Issues/Material Considerations

Principle and Planning Policy - The key issues are the visual impact of the reduction in the height of the wall and its impact on the setting of adjacent listed buildings and on the character and amenity of the Torquay Harbour Conservation Area, the impact on amenity and on bats.

The relevant policies are SS10 which defines what form of development is acceptable within the Conservation Area, HE1 which relates to the impact of the development on listed buildings, DE1 which defines design quality, NC1 regarding impact on protected species and TA2 which defines standards for new vehicular accesses.

The information submitted to support this application is contained in a letter and subsequent report from a Structural Engineer and in revised plans. There is some inconsistency between the structural engineers report and the submitted plans which accounts for some confusion on behalf of neighbours.

The Structural Engineers report confirms that the wall is a product of various periods of construction and achieves a height of between 6 and 3.6 metres. The lower reaches of the wall are considered original, probably farm outbuildings, and the upper reaches of later construction.

The investigations confirmed that the ivy growth (now removed) has been damaging, the wall has little in the way of foundations and the removal of a section of the wall to create the access creates instability. The proposed remedy

is either costly reinforcement or removal. His recommendation is to reduce it to 2.5 metres in height but does not make it clear whether this is from the inside of the site, which has a higher ground level or from the Museum Road elevation. This has a significant impact in terms of how much would be exposed to view.

The revised plans indicate a higher final height for the wall which effects some kind of compromise between the rather drastic but cost effective remedy suggested by the structural engineer and the ambition evident in condition 3 of seeking to retain as much of this distinctive and attractive boundary wall as possible.

This does need clarification but it appears to show the wall being retained at a height sufficient to screen the most part of the elevations of the new dwellings from Museum Road but reducing in height towards the new gate piers where stability is most compromised. It has been suggested that retention to its existing height or close to it where the wall abuts the listed Museum would be beneficial and at the time of writing, confirmation of this is awaited.

If this is agreed, it is thought that this represents an acceptable compromise in the circumstances. This reasonably preserves the setting of the listed Museum and the character of the Conservation Area. It would also better preserve the privacy of future occupiers and neighbours.

However a detailed plan will be required to clarify the exact details of demolition and an appropriately reworded condition 3 can ensure that demolition is confined to that shown on the agreed plan.

In respect of bats, the ecological survey submitted to support the application did not identify any potential bat roosts and it is likely that any bat occupation of the ivy clad wall was probably sporadic and occasional.

S106/CIL - The existing Unilateral Undertaking will need to be tied to the new application; a s.106 agreement to achieve this was completed on 1st December 2015

Conclusions

The variation of condition 1 and 3 is acceptable subject to a revised condition 3 to confine the extent of demolition to that shown on the agreed plan.

Relevant Policies

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Application Number

P/2015/0983

Site Address

Spa View
Lower Warberry Road
Torquay
Devon
TQ1 1QS

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Description

Erection of a building of 9 apartments with parking (revised scheme).

Site Details

This narrow but elongated plot forms part of the earliest Victorian development in the Warberries Conservation Area.

Originally occupied by a small 'cottage ornee', this building was subsequently extended to form a hotel which occupied the head of this elevated south facing plot enjoying views across the Warberry Valley.

The hotel was demolished several years ago following fire damage. The demolition works led to the loss of much of the existing planting on the site. The plot is closely bounded on three sides by residential properties.

A stone retaining wall defines the boundary of the site along Lower Warberry Road. This wall, through which the existing vehicular access is located, is recognised as being of merit in the Conservation Area Appraisal. This is to be adapted to improve the poor visibility.

A public footpath, part of the 'Wellswood Paths', which is in a poor condition, skirts the southern end of the site.

It is prominent within the Warberries Conservation Area due to the nature of the plot which is visible in many long views across the valley.

Detailed Proposals

This is a detailed application to construct a new build scheme of 8 x 2 Bed and 1x 3 bed apartments in a single villa form with a 14 space car park located adjacent to the building with vehicular access from Lower Warberry Road.

It is to be located in the position of the original building on the site at the head of the plot. It has the form and proportion of a typical villa. It consists of two principal stories with a distinct stone plinth and subservient roof element when viewed from the road frontage. Due to the change in levels, this increases to three main

stories with a plinth and roof element overlooking the garden.

It also involves modifications to the stone boundary wall to improve visibility. Replacement planting and landscaping is included in the proposals.

Summary Of Consultation Responses

Historic England: Are satisfied that this scheme overcomes the main concerns in relation to the previous proposal on the site subject to some amendments to the street facing elevation to provide a more open relationship.

Conservation and Design Officer: Is satisfied that the scheme is acceptable in terms of its relationship to the character of the Conservation Area.

Arboriculturalist: Whilst broadly satisfied with the scheme does require a detailed tree report and details of protection measures, substitution of some tree species, more specific details regarding sizes, densities and species and a landscape and ecological management plan (LEMP).

Green Infrastructure Coordinator: Finds the survey information in relation to ecology to be acceptable and recommends a number of informatives to secure long term biodiversity on the site. A condition is recommended to secure a detailed landscape plan to ensure that the concept plan included as part of the application delivers in terms of ecology and biodiversity.

Highways: Observations awaited.

Drainage Engineer: Observations awaited.

Summary Of Representations

None received to date.

Relevant Planning History

P/2009/1344: Construction of 8 apartments: Approved.

P/2010/ 0045: Demolition of hotel: Approved 3.03.10

P/2012/1107: Construction of 8 dwellings: Approved 27.08.13

P/2013/0222: Construction of coach house: Refused 6.6.13 and subsequent appeal dismissed 6.12.13

P/2015/0361: Construction of 9 flats: Withdrawn.

Key Issues/Material Considerations

Principle and Planning Policy - The key issues are the design of the building, amenity, the quality of the residential environment, the impact on remaining trees, measures to mitigate for loss of planting on site and the impact of the alterations to the boundary wall to achieve visibility.

The relevant local plan policies are SS10 in relation to development within Conservation Areas, DE1/DE2/DE3 in relation to design quality and amenity, SS8/SS9/C4/NC1 in relation to the biodiversity of the site, trees and landscaping and TA2/TA3 in relation to access and parking.

Design - There is a long history to the development of proposals on this site.

Concerted attempts to retain the building were eventually overcome by the continuing deterioration of the fabric and finally by the fire that swept through the building in 2009.

The remains of that building were demolished in 2011.

A replacement scheme of 8 flats was approved in 2009. This was a contemporary reinterpretation of a Victorian villa and this emerged following advice from Design Review Panel.

A slightly modified version of this scheme was then approved in August 2013 but this took the form of 8 town houses rather than apartments albeit in a Villa form.

There was little market interest in the site and in 2015 a further revised scheme was submitted which involved a large 6/7 storey block containing 9 flats but set more centrally on the site.

The applicants were advised that this would be recommended for refusal of planning permission due its poor design, lack of respect for the key characteristics of the site and impact on neighbours. It was subsequently withdrawn.

There has been negotiation since to establish a more suitable design approach.

The DRP had originally advocated a 'contemporary villa' approach to the site. This means reflecting the key design principles of a typical Torquay Villa in the emerging scheme. To be successful the design would need to respect its position in the site, the proportions of the building, incorporate a vertical emphasis, the use of key features and an appropriate range of materials.

It was considered that this advice was still relevant and provided the most sensible way of achieving the scale of development needed to render the development of the site viable.

This scheme involves building in the location of the original building on the site at the head of the plot. It has the form and proportion of a typical villa. It consists of two principal stories with a distinct stone plinth and subservient roof element when viewed from the road frontage. Due to the change in levels, this increases to three main stories with a plinth and roof element overlooking the garden.

The mass of the building is further broken up by the use of render panels and through articulation of the building which is split vertically along its axis with the western wing set back and the eastern wing projecting forward into the garden.

The fenestration picks up the recessed window forms of similar Victorian buildings and the bay forms are expressed in the balconies overlooking the garden.

There are some minor unresolved design issues relating to the treatment of the Lower Warberry Road elevation to create a more open relationship with the street and clarity about the cladding of the chimney feature and revised plans may be required. A verbal update will be provided at the meeting.

In terms of materials, the use of render, natural Stoneycombe limestone for the plinth, metal standing seam for the roof and aluminium windows and rainwater goods has been recommended and agreed. This palette is sympathetic and will help create the finesse of detail required for a successful design.

Samples of materials and a sample stone panel to be erected on site are to be required by condition.

Whilst more detail is needed in respect of key features, the indicative detail provided appears acceptable and should produce a crisp modern finish. This can be secured by condition as there is sufficient confidence provided by the detail secured to date.

Amenity - In respect of amenity, there are residential properties bordering all three sides of this long narrow plot. To the east, dwellings are set at a lower level and there is surviving boundary planting which helps mitigate any impact on privacy. The relationship to the west of the site is the most sensitive due to the orientation of Spa Court, a building that is converted to flats and which overlooks a communal green space which abuts the boundary of this site.

This boundary was, until a few years ago, largely screened by heavy planting which was removed during demolition works. This does open up views between this and the neighbouring site and the elevated terraces and balconies will create some overlooking.

However, in contrast to earlier proposals on the site, the Villa footprint is split along a vertical axis and the western wing set back closer to the road which does substantially ease the relationship between the two.

The overlooking is also largely oblique, is confined to areas of Spa Court that do not have habitable room windows and where there is overlooking it is to areas that are not in themselves private being communal gardens.

The applicants have been asked to address this loss of screening and the landscape proposals do achieve this which should restore a degree of privacy and softening.

Despite widespread consultation, no objections have been received to the scheme which may reflect the fact that the long term condition of the site is probably of more concern to people living adjacent to the site than some loss of privacy.

Quality of the Residential Environment - The scheme provides for apartments which fully meet and exceed Local Plan standards regarding size, layout, outlook and access to adequate amenity space.

Trees/landscaping - Most of the trees on the part of the site to be developed have been lost since the building was destroyed by fire and demolished. They were not of any great merit individually but did provide softening and screening to the boundaries of the site

The landscape strategy involves substantial replacement of trees and boundary planting. A condition is required for protection of trees that have survived and to ensure that the works to create the drive do not damage the trees to the eastern boundary of the site.

The major portion of the extensive garden is to be sensitively landscaped and provides an appropriate setting to the building and a resource for future occupiers.

An ecology report confirms that there is not an adverse impact on habitat or biodiversity.

Highways/Visibility - In respect of highway matters, the scheme is considered to be acceptable.

There is adequate parking in a car park court situated to the rear of the building adjacent to Warberry Road. The visual impact of this is to be mitigated by the use of natural stone retaining walls which should screen the cars largely from view. Whilst this is welcomed in principle, the detail is not entirely clear and so further detail is required by condition.

Whilst an element of the boundary wall has to be demolished to improve visibility it is important that this is minimised and properly detailed. A condition is to be added to require more information about how this is to be done.

A public footpath, part of the distinctive 'Wellswood Paths' skirts the southern end of the site. It is in a poor condition, is little used but would provide occupants of the site with quick pedestrian access to the Harbour area of town. Its upgrade

should be justified through sustainable transport contributions as it would be increase the sustainability of the site and reduce reliance on movement by the private car.

Cycle parking is not included but there is ample space for this to be achieved so can be dealt with by condition.

S106/CIL - Due to recent changes to Government guidance which prevents LPA's from securing tariff style contributions, it is concluded that only funding for the provision of waste facilities (£450) and the upgrade of the public footpath which skirts the southern end of the site can be justified. The scheme, would under the adopted SPD 'Planning Contributions and Affordable Housing' deliver around £16,000. Advice on what level of contribution is required to secure the upgrade of this footpath has been sought from Highways.

There is no justification for any greenspace contribution as the site is fully compliant in terms of the level of amenity space provided as the garden is very large and requires substantial landscaping.

Conclusions

The design of the building reflects a contemporary take on a classic Italianate Villa. This is based on Design Review Panel guidance which established broad principles for this site in 2009 and which are still considered relevant today.

It is, in terms of the quality of accommodation to be provided, wholly in compliance with Local Plan standards.

Landscaping of the site has been much diminished by recent works of demolition and clearance which does expose the site to view from adjacent properties. However the design of the scheme seeks to minimise impact through careful siting of the building and the set back of the western wing does reduce the impact on Spa Court.

The landscape proposals will also help mitigate for this loss and will in time reintroduce softening and screening as well as improve biodiversity.

Car parking levels are considered acceptable and contributions towards the Wellswood Paths that skirt the southern boundary of the site will improve the sustainability of the site.

It is recommended that permission should be granted subject to the submission of revised plans in relation to the Lower Warberry Road elevation, the submission of details to satisfy the recommendations of the Arboriculturalist in terms of tree protection measures, species types and long term management measures, the completion of a S106 Agreement or Unilateral Undertaking to secure £450 towards the provision of waste facilities and a contribution (to be determined)

towards upgrading the adjacent public footpath and to the conditions highlighted below.

Conditions

1. Large scale details of key features.
2. Samples of all materials and a sample panel of stone to be inspected on site.
3. Detail of retaining walls and landscape to car parking area.
4. Detail of alteration to Boundary wall to improve visibility.
5. Detail of bin store, cycle storage and implementation of both prior to occupation.
6. Implementation of agreed landscape scheme.
7. Implementation of biodiversity measures.
8. Implementation of Tree protection measures.
9. Drainage plan to be implemented.

Relevant Policies

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Agenda Item 12

Application Number

P/2015/0986

Site Address

The Anchorage
Headland Road
Torquay
Devon
TQ2 6RD

Case Officer

Mr Robert Pierce

Ward

Cockington With Chelston

Description

Replacement dwelling.

Executive Summary/Key Outcomes

The proposal is for the demolition of the existing traditionally designed two storey dwelling and attached double garage and its replacement with a modern "marine" style detached, three storey dwelling and attached double garage (with cinema room over). It will incorporate the existing access.

The proposal is considered acceptable in this location and without any material detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality.

The application was the subject of a Site Review Meeting on Friday 27th November 2015 (Councillors Amil, King and Winfield in attendance) when it was agreed with Officers that the application be considered by the Development Management Committee at their next Meeting on 14.12.2015.

Recommendation

Conditional Approval.

Statutory Determination Period

8 weeks (3rd December 2015) - Extension of time has been agreed with the Agent until 11th January 2016

Site Details

The large existing detached two storey dwelling house is well set back from the road frontage on the south side of Headland Road. Its original plot has been subdivided and it shares a communal driveway with a new dwelling (allowed on appeal) which was built about 6 years ago. Due to the sloping nature of the site, the front of the property is approximately 2 metres lower than the rear. As a result there is basement accommodation in the front corner of the house. There is a large flat roofed double garage block set at right angles to the front elevation which backs onto the party boundary. To the rear of the property there is a large single storey flat roofed extension which extends out by 5 metres across the full

width of the rear elevation. The roof of this extension is used as a large terrace which is accessed from three pairs of French doors at first floor level. The property has a very large rear garden which is level and extends some 26 metres to the edge of "Broken Cliff" and the sea below. The rear garden to the property (together with the adjoining properties) is located within the Coastal Protection Zone. The side boundaries to the rear garden is screened by hedging and shrubs and is open to the cliff edge. There are no significant trees on the sight. There are slight variations in the heights of the properties along the seaward side of Headland Road but differences are not significant as the plots are all reasonably level.

Detailed Proposals

The application has been submitted following a pre-application development enquiry. The pre-application enquiry received a positive response (subject to a contextual drawing which would give a clearer indication as to whether the increase in height would have any negative impact and enable a landscape assessment to be made). The submitted plans indicate that the existing dwelling will be reduced to floor level and replaced with a modern looking "marine" style dwelling built on a slightly larger footprint. The front elevation would have a central projecting feature, comprising a curved, 3 storey atrium which would contain the central staircase to all floors. The rear elevation would have a flat roofed element which would project out by 8 metres. Access to the house would be via steps leading up to a porch to the side east elevation. A two storey side wing is also indicated to the front of the west elevation. The ground floor accommodation would comprise gym/sauna, office, utility room, and a large open plan dining hall, living room and breakfast kitchen. The first floor would accommodate 4 en suite bedrooms. Three of the bedrooms would lead out onto a roof terrace and perimeter roof garden over the flat roofed element. A smaller third floor is also indicated which will accommodate a fifth en suite bedroom and dressing room with access out onto a further roof terrace which will have privacy screens on each side. The new garage to the front will have a footprint double the size of the existing garage and will support a cinema room above.

Summary Of Consultation Responses

South West Water: No objection.

Environment Agency: Observations Awaited.

Structural Engineer: It is reasonable and appropriate to attach conditions in respect of Rate of Erosion and Cliff Instability.

Drainage Engineer: Observations awaited.

Summary Of Representations

Letters of objection received from the 3 immediate neighbours at "Yellow Tubs", "Portofino" and "Cliff Orchard". Also letter of support from applicant.

Main issues of concern included:

- Design of the replacement house out of keeping with local character

- Does not preserve or enhance the high quality residential setting of Headland Road/Cockington Conservation Area
- Unsympathetic modern design and inappropriate scale and massing
- Additional height and considerable bulk of the new dwelling will have an adverse impact on the residential amenity of the neighbouring properties
- Overlooking and overbearing impact on neighbouring properties
- In particular window openings overlooking into habitable rooms of Cliff Orchard and Portofino
- Loss of natural light to adjoining properties
- Overdevelopment of the site
- Contrary to Paragraphs 6, 7 and 57 (Sustainable development and good design) of the NPPF
- Adverse impact on the skyline
- Impact of garage/cinema room would impose on the boundary with "Yellow Tubs"
- Garage is disproportionate to the needs of a single dwelling house
- Overlooking from third floor balcony
- Overshadowing and reduction of light to ground floor window of "Yellow Tubs"
- Overlooking from balconies and roof garden
- Flat roof not in keeping with the pitched roofs of the surrounding properties
- Increase in height will have a negative impact on the south facing thermal solar panels on the roof of "Portofino" during mid winter months.

Relevant Planning History

DE/2015/0217 - Pre Application Enquiry - Redevelopment with replacement dwelling (similar to the current proposal). Positive response at Peer Group Review 9th June 2015

P/2010/1288 - Replacement dwelling at "Overcliffe", Headland Road - Approved 6.01.2011

P/2010/1393 - Replacement dwelling at "South Cliff", Headland Road - Approved 8.2.2011

Key Issues/Material Considerations

The main issues in respect of this proposed replacement dwelling are as follows:

Character and Appearance: Representations regarding the impact of the proposal on the character and appearance of the area have been received and noted. The proposal is for one replacement "marine" style detached three storey dwelling with a large attached double garage with cinema room over. The move away from a traditional design to this contemporary approach is not significantly different to two other modern properties which have recently been developed further along Headland Road. Although the proposed dwelling will have a third storey, the plans indicate that it will only be slightly higher than the ridge of the existing property but it will not be as wide. The property is well setback from the road frontage and is not particularly visible from the road. It will be visible from

the sea but it is well set back from the cliff edge. Paragraph 60 of the NPPF emphasises the fact that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however proper to seek to promote or reinforce local distinctiveness. In the light of the two dwellings that have recently been developed further along Headland Road it is considered that the proposed dwelling will further reinforce the evolution of modern "marine" style properties along this cliff top location and will make a positive contribution to this group of large houses. It is therefore considered that the proposed three storey dwelling in this location is appropriate and without detriment to the character or appearance of the locality.

Overdevelopment: The replacement dwelling will follow the basic footprint of the existing dwelling with the exception of a few deviations including the single storey extension to the rear which will project out a further 3 metres. The property enjoys the benefit of a very large rear garden which can easily accommodate the larger single storey extension. The new garage will be larger but there is plenty of space to the front of the property and again it will not be visible from a public view. Therefore the proposal is not considered to represent overdevelopment.

Impact on neighbouring residential amenity: It is noted that the neighbours are concerned about loss of privacy due to overlooking from the proposed windows, balconies and roof terraces. In order to reduce any adverse impact in this respect, negotiations took place with the agent and a proposed first floor balcony to bedroom 5 has been removed and replaced with a glazed flush fitting balustrade fixed to the outside wall. There is already a large first floor roof terrace over the existing flat roofed extension to the rear, which means that there will not be an unacceptable increase in overlooking from the proposed first floor roof terrace. Although it will project out by a further three metres, the plans indicate that the additional perimeter area will be laid out as a roof garden. This will be restricted as an area of useable amenity space by condition. The second floor roof terrace will have 1.8 metre high privacy screens at each end to prevent lateral overlooking. The second floor bedroom has a curved featured window to the side in order to take advantage of views towards Torquay. This will be set back from the side elevation below by approximately 1.3 metres at its outer circumference which is considered sufficient enough to eliminate an unacceptable level of overlooking.

Overbearing impact: It is noted that the neighbours next door at "Yellow Tubs" are concerned about the proximity of the proposed garage and cinema room above. The existing large double garage is sited in close proximity to the boundary and the upper cinema room level will set back off the boundary by a minimum of 2.5 metres which is not considered to be un-neighbourly.

Loss of direct sunlight: It is noted that the neighbour opposite at "Portofino" is concerned that the increase in height above the existing ridge will interfere with solar rays beaming onto Thermal Solar Panels that have been installed on that property. This, however, is not a material planning consideration.

Impact on the Coastal Protection Zone: One of the key considerations in assessing a proposal in the Coastal Protection Zone is whether it will adversely affect the natural environment and whether it is compatible with landscape policies. The proposed dwelling will be slightly higher than the existing property however it will remain well set back from the edge of the cliff and therefore it is not considered that will detract from the unspoilt character and appearance of the coastal area.

S106/CIL - Not applicable.

Conclusions

The proposal is considered to be acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance locality. The application accords with Local Plan Policy and relevant paragraphs of the NPPF.

Condition(s)/Reason(s)

01. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed study by an expert geologist of the rate of erosion for the site and the local area. The study would need to demonstrate that the rate is acceptably low and would not constitute a risk to the life expectancy of the proposed construction.

Reason: In the interests of assessing the impact of the proposal on the Coastal Protection Zone.

02. Prior to the commencement of development a survey of the local cave formation and cliff instability potential shall be carried out by an expert geologist and submitted in writing to the Local Planning Authority together with the results and any remedial works necessary. No development shall take place on the site until any remedial works required have been agreed in writing by the Local Planning Authority (LPA). The agreed works of remediation shall then be carried out in accordance with the written programme approved by the LPA.

Reason: To mitigate the potential risks associated with development in close proximity to a cliff.

03. Notwithstanding the provisions of Article 3 of the Town and Country

Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1, Classes A -F (incl.) shall be carried out without the prior consent of the Local Planning Authority.

Reason: The site is in close proximity to neighbouring properties and within the Coastal Protection Zone and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties.

04. Notwithstanding the submitted Flood Risk Assessment and Drainage Strategy dated 22nd September 2015, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of 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. This information is required pre commencement as Torbay has been designated as a critical drainage area by the Environment Agency and this detail is needed to prevent an increase in flood risk.

05. Privacy screens, measuring 1.8metres in height from the floor level of both ends of the second floor level roof terrace, extending 3.210 metres as indicated approved drawing No 1305.11c, shall be installed prior to first use of the second floor roof terrace hereby approved. This screens shall be obscure glazed to, or to the equivalent of, or to a level in excess of Pilkington Level 5. The screens shall then at all times be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that the privacy and general amenity of the neighbouring occupiers is preserved.

06. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity and of retaining the character of the area.

07. The outer area of flat roof above living/breakfast room identified as roof

garden on approved drawing no.1305.11c shall not be used for sitting out and shall only be accessed for maintenance purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
C3 - Coastal change management
NC1 - Protected sites - internationally import
DE1 - Design
DE3 - Development Amenity
ER4 - Ground Stability 1
H9 - Layout, and design and community aspects
EP12 - Coastal Protection Zone
L3 - Coastal Protection Areas
EP8 - Land stability
C2 - The coastal landscape

Application Number

P/2015/1108

Site Address

4 - 24
Torwood Street
Wellswood
Torquay
TQ1 1EB

Case Officer

Mrs Helen Addison

Ward

Wellswood

Description

Variation of conditions P1, 4 and 22 regarding P/2014/0965 - Condition P1 plans, Condition 4 Floor Levels and Condition 22 materials. Proposal includes a 'pop up' on the roof to conceal lift over runs, duct work and to provide safe access for maintenance. Gross external area of ground floor to be increased from 1,612 sqm, to 1,713 sqm.

Executive Summary/Key Outcomes

This application is for a number of changes that the applicant wants to make to the approved scheme for redevelopment of the site. It is normal for changes to be made to major development proposals as they progress towards implementation. These revisions have arisen from further consideration of how the development will work operationally i.e. provision of mechanical ventilation, to meet incoming tenants needs and design improvements.

The majority of the proposed changes are minor and would have little impact on the appearance of the scheme. There are however two revisions where securing a good quality design is essential in order to ensure that the appearance of the development enhances the appearance and character of the conservation area. These are a) how the boundary with the adjoining property to the west is treated and b) the visual impact of 'pop up' box on the roof. Further detail of these revisions has been requested from the applicant. Providing this reaches the standard set in Policy SS10 (conservation and the historic environment) the proposal would be acceptable.

Recommendation

Subject to the receipt of satisfactory information about the design of the following revisions; a) how the boundary with the adjoining property to the west is treated and b) the visual impact of 'pop up' box on the roof, and a deed of variation to link this application to the approved redevelopment granted under application reference P/2014/0965, conditional approval. The deed of variation to be completed within three months of the date of this meeting.

Statutory Determination Period

The thirteen week target date is 12 February 2016.

Site Details

The site comprises the frontage buildings of 4 - 24 Torwood Street and includes the land to the rear of these buildings, which has previously been used as a car park. It is bound to the south by Torwood Street and to the north by a concrete faced rock wall of approximately 10m in height beyond which is The Terrace at a notably higher level. To the west of the site is a public right of way which provides pedestrian access between the two roads. The car park originally provided stabling and garaging for the former Royal Hotel which is to the west of the application site. There is an existing vehicular access onto Torwood Street between building numbers 16 and 22. None of the former stables and garages remain on the site. The site area is approximately 0.23ha.

In terms of constraints; the site is within the Torquay Harbour Conservation Area. The Torquay Harbour Area Character Appraisal identifies most of the buildings on the site as key buildings within the conservation area with largely unspoilt frontages. Within the Local Plan the frontage buildings are identified as being within a Secondary Shopping Frontage. In the new Torbay Local Plan 'A Landscape for Success' the site is within the secondary shopping frontage and is also identified as a 'committed and other deliverable development site'. Torwood Street is shown as being part of the major road network.

The buildings on the site have been closed and boarded up for several years.

The site is in a prominent location in the town centre, and is located close to the harbour and the clock tower which is a notable land mark. The surrounding area is largely in commercial use with a number of shops, cafes, take aways, night clubs and offices in the area. There are also residential flats within the vicinity of the site, some of the closest being to the west and to the south at the former Queens Hotel. The Terrace car park is to the north of the site. The site is within an area that has a vibrant night time economy due to the proximity to nightclubs and takeaways.

The site is visible in long distance views from the harbour, Torwood Street to the east and west and from Montpellier Road to the north.

Detailed Proposals

The application is submitted to vary conditions P1 (list of approved plans), condition 4 (finished floor levels to accord with approved plan) and condition 22 (details of materials to be submitted and to be based on those detailed in the approved plans) of application reference P/2014/0965.

A series of changes to the approved plans is proposed. The full list of changes is

set out in letter dated 6th November from the agents which is reproduced with the representations for this agenda. The most significant changes to the plans are:

1. External terraces integrated into the retail units at ground floor level to facilitate external seating, with frameless glass balustrades
2. The line of glazing to the retail units has been pushed back to facilitate the terraces and concertina/bi-fold glazed doors have been integrated to the shop fronts to facilitate 'opening up' these units to the street during the summer months
3. A3 (restaurants and cafes) unit 1 extended to first floor level and a concertina/bi-fold glazed door with juliette balcony integrated into the facade
4. Louvers added to the elevations facing Torwood Street, The Terrace and the public footpath in order to facilitate mechanical ventilation
5. Boundary line to left hand side of Torwood Street elevation moved to avoid existing overhanging cornice on neighbouring building. Louvers added to conceal gap between buildings
6. Dark grey granite clad planters have been incorporated into the hotel and office entrances facing The Terrace, and a ceramic tile finish (dark grey) is proposed to the hotel and office entrances
7. A 'pop up' has been incorporated at roof level adjacent to the site boundary with 26 Torwood Street in order to conceal the hotel lift over runs, distribution of kitchen ductwork from retail units at ground floor and provide safe access for maintenance. This will be finished in white render
8. The gross external area of the ground floor has increased from 1612 sqm to 1713 sqm. This is due to the realignment of the rear wall (to the escape and service corridor/retail plant) in order to optimise the space for retail use on this level and improve the projects viability.

Summary of Consultation Responses

Community Safety - recommends the concertina doors are closed no later than 11 pm. This is consistent with the vast majority of businesses that operate these type of windows in this area. Further to this I would not anticipate restaurants operating in this area would significantly contribute to existing noise levels before 11:00p.m. After 11:00pm open windows would allow noise to breakout which may significantly impact on the local environment.

Summary Of Representations

One received and reproduced.

Relevant Planning History

Various applications have been submitted in relation to the existing buildings on site including changes of use, minor alterations including shop-front alterations and signage.

P/1986/2379 Erection of 43 sheltered flats plus wardens accommodation, offices and retail/storage space. Approved 25/9/1987

Subsequently an application for a certificate of lawfulness was submitted in 2005 in an attempt to prove that work had commenced on the scheme which was approved in 1987, thereby allowing the work to continue. The certificate of lawfulness application was refused on 6/3/2006 and subsequently dismissed at appeal on 22/08/2007.

P/2009/0689 - Demolition Works. Approved 06/07/2010

P/2009/0690 - Demolition of 4 - 24 Torwood Street. Redevelopment of site comprising 12 residential apartments with residential parking, 80 bedroom hotel and associated facilities, 6 screen cinema. 1 retail unit and 3 restaurants. Approved 6/1/11

P/2011/0035MPA Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access, approved 11/5/12

P/2011/0036CA Demolition works granted 12/5/11

P/2014/0965 Mixed use development of hotel, 1 No A1 unit, 3 No A3 units, 3 No B1 office use units and 1 No B1 office use or D1 gym use unit at former Royal Garage site, involving the demolition of property Nos 4-24 Torwood Street, Torquay. Approved 16.10.15.

Key Issues/Material Considerations

The main issues are the whether the proposed changes to the external appearance are acceptable in terms of the impact on the appearance and character of Torquay Harbour conservation area, whether the changes to the uses within the building are acceptable and impact on residential amenity.

Principle and Planning Policy - The relevant policies are SS10 which defines what form of development is acceptable within the Conservation Area, DE1 which defines design quality, DE3 which relates to amenity of neighbouring and surrounding uses and DE4 which relates to building heights.

Impact on the appearance and character of Torquay Harbour conservation area - The majority of alterations to the external appearance of the building are relatively minor and would not change the overall character of the development. The introduction of terraced external seating areas with glazed balconies to the Torwood Street elevation would add interest to the building and this part of Torwood Street. A number of the proposed alterations such as adding ceramic tiles to the ground floor on the Torwood Street elevations and Terrace elevation would enhance the appearance of the building. There are a number of relatively

minor changes that the applicant has been asked to amend/clarify which mainly relate to detail on the submitted plans. The insertion of a louver panel at fourth floor level on The Terrace elevation is considered to be unacceptable and the agent has been asked to remove this.

The two principle revisions that will make a notable change to the approved scheme are identified in the list above as number (5) introduction of louvers between the proposed building and 17-18 Torwood Street and (8) the 'pop up' on the roof. In both cases the applicant has been asked to submit further details of these revisions so that their visual effect on the appearance and character can be assessed in detail. The height of the development was a sensitive matter when the application was originally granted planning permission. The proposed 'pop up' will increase the height of the corner of the building by approx. 2.3 metres. The design quality of both these revisions will be important to the overall appearance of the development. As submitted, there is insufficient detail to be confident that these two alterations would meet the standard for development within a conservation area required by Policy SS10 of the new Local Plan 'A landscape for success'. The applicant has been asked to submit further detail in respect of these revisions.

Whether the changes to the uses within the building are acceptable - The proposed use of 145m² of approved office space at first floor level in conjunction with the restaurant below it on the ground floor would result in a minor loss of office floor space that would have little impact on the overall provision of office floor space in the development. The gross internal area that would be in office use in the entire development would be 3505m². This revision represents a change of 4% of the office space to restaurant use.

Impact on residential amenity - There are residential properties in the vicinity of the site, notably at the former Queens Hotel and adjoining the western boundary of the site. One proposed revision is the introduction of bi-fold/concertina doors to the restaurants. In order that these don't cause noise nuisance to nearby residents the Community Safety team have recommended that these are closed at 11pm. This can be controlled through the imposition of a condition.

S106/CIL - The existing Section 106 agreement will need to be tied to the new application through a deed of variation.

Conclusions

In conclusion, the majority of the proposed revisions to the approved scheme are minor and would have little impact on the appearance of the proposed development.

There are two changes that have the potential to have an effect on the appearance of the building, which are a) how the boundary with the adjoining property to the west is treated and b) the visual impact of 'pop up' box on the

roof. These both require further information to be submitted in support of them in order to clarify whether these are acceptable. Subject to receipt of this further information and the design quality of these two revisions being acceptable, the application should be granted planning permission.

Condition(s)/Reason(s)

01. Sound Insulation
02. No Demolition Without Contract For Redevelopment
03. Accord With Flood Risk Assessment
04. Finished Floor Levels
05. Contamination Scheme
06. Control Over Hours Of Demolition And Construction
07. Operation Of Construction Equipment
08. Method Of Piling To Be Agreed
09. Method Of Controlling Vibration In Relation To Construction Of Scheme
10. Minimise Dust During Construction
11. Details Of Off Site Highway Works
12. Drainage Details
13. Archaeological Scheme Of Investigation
14. Scheme For Footpath Improvement
15. No Equipment On Roof
16. Details Of Impact On Highway Wall
17. Monitoring Of Retaining Wall
18. Details Of Loads On Retaining Wall
19. Assessment Of Change In Loadings To Retaining Wall
20. Details Of Protection To Original Masonry Wall

21. Gym To Be Used For No Other Purpose In Class D2
22. Large Scale Details
23. Detailed Schedule Of Materials
24. Provision Of Cycle Parking
25. Flood Management Plan
26. Incorporation Of Flood Resilience Measures
27. Lighting Strategy
28. Improvements To Public Realm
29. Extract Ventilation System
30. Travel Plan
31. Doors To Restaurants To Be Closed At 11pm

Relevant Policies

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Agenda Item 15

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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