



Thursday, 28 July 2016

## **DEVELOPMENT MANAGEMENT COMMITTEE**

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

**Monday, 8 August 2016**

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 Morey

Councillor Robson

Councillor Stringer

Councillor Winfield

Councillor Pentney

Councillor Tolchard

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**A prosperous and healthy Torbay**

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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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# 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 4 - 5)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 11 July 2016.
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. **Land West Of Brixham Road, Paignton - P/2016/0094/MPA** (Pages 6 - 32)  
Erection of 42 dwellings and associated infrastructure (revised documents received 6 June 2016).
6. **Land West Of Brixham Road, Paignton - P/2016/0188/MRM** (Pages 33 - 53)  
Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park (proposal / description amended 5 April 2016).

7. **Silverlawns Nursing Home, 31 Totnes Road, Paignton, TQ4 5LA - P/2016/0555/MVC** (Pages 54 - 61)  
Variation of conditions application re 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.) - Vary condition P1 to include one additional residential unit within the proposed new building to the south eastern corner of site.
8. **Land At Brixham Road, Yannons Farm (Area D), Paignton - P/2016/0610/MRM** (Pages 62 - 74)  
Submission of Reserved Matters relating to layout, scale, appearance and landscaping in relation to P/2015/0124 (Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for access).
9. **76 Warbro Road, St Marychurch, Torquay, TQ1 3PS - P/2016/0371/PA** (Pages 75 - 85)  
Change of use from Class B1 to B2 in order to establish an MOT testing station, including installation of an MOT lift (additional information received 20 July 2016).
10. **Holme Court, Lower Warberry Road, Torquay, TQ1 1QR - P/2016/0545/PA** (Pages 86 - 89)  
Replacement balconies to the south, east and west elevations (description amended 22 July 2016).
11. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
12. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 3 August 2016. 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](http://www.torbay.gov.uk) within 48 hours.



## Minutes of the Development Management Committee

11 July 2016

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Morey (Vice-Chair), Robson, Winfield, Pentney and Tolchard

(Also in attendance: Councillors Stubbley)

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### 10. Apologies for absence

Apologies for absence were received from Councillors Cunningham and Stringer.

### 11. Minutes

The Minutes of the meeting of the Development Management Committee held on 14 June 2016 were confirmed as a correct record and signed by the Chairman.

### 12. 10 Churston Close, Brixham, TQ5 0LP - P/2016/0449/HA

The Committee considered an application for the addition of 2 dormers to read elevation and opaque glazed windows to side elevations, reduction in size of garage and, reposition of door and windows in front elevation.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Rowland Peers addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Stubbley also addressed the Committee.

Resolved:

Approved with the condition and informative set out in the submitted schedule and an extra condition in respect of additional landscaping to the boundary wall with the neighbouring property 19 Barnfield Close, Brixham.

### 13. Oldway Mansion, Torquay Road, Paignton, TQ3 2TY - CN/2015/0081 & CN/2015/0100 (1 combined report)

The Head of Spatial Planning provided members with an update on the progress made to secure a new development programme, that itself results in repair and refurbishment of the listed buildings on site through delivery of enabling development.

Resolved:

That the report be noted.

**14. Paignton Zoo Environment Park, Totnes Road, Paignton, TQ4 7EU - P/2016/0455/MPA**

The Committee considered an application for the provision of mixed species exhibit including new buildings and landscaping.

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

Resolved:

Approved subject to:

- (i) the receipt of a revised tree removal plan to indicate T16 being retained;
- (ii) additional information regarding the relocation of the Badger sett;
- (iii) a revised Construction Method Statement;
- (iv) submission of additional drainage details;
- (v) the submission of results of ecological studies with regards to bats and the completion of an Habitats Regulation Assessment; and
- (vi) determination of appropriate conditions (as headlined in the submitted report) being delegated to the Executive Head for Business Services.

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Chairman

# Agenda Item 5

**Application Number**

P/2016/0094

**Site Address**

Land West Of Brixham Road  
Paignton

**Case Officer**

Carly Perkins

**Ward**

Blatchcombe

**Description**

Erection of 42 dwellings and associated infrastructure (revised documents received 6 June 2016)

**Executive Summary/Key Outcomes**

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete. There are two reserved matters applications still pending consideration for the retail store and the sports pavilion.

The application site is located south of Moor View Industrial Estate and west of Waddeton Road. To the south and east of the site is the site subject to application reference P/2015/1126 for 215 dwellings. The site to the east of Waddeton Road is currently under construction under reference P/2013/1229.

The application that is subject to this report is for 42 dwellings and the associated internal highway network and landscaping. The access arrangements remain the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

The application is for full planning permission and is not submitted pursuant to the outline consent. Whilst the proposal is a new full application, the application represents a revised proposal to allow for an additional 42 dwellings on top of the 350 approved at outline stage resulting in 392 residential units across the wider site but within the same area as that approved under reserved matters applications P/2013/1229 and P/2014/0071. Whilst the intention was to increase housing numbers across wider residential site, application reference P/2015/1126 which aimed to provide 215 dwellings within a smaller site area was refused on the grounds of overdevelopment. It was considered that the development proposed under reference P/2015/1126 would fail to deliver a high quality living environment or a good standard of amenity for future occupants and that the proposal would constitute overdevelopment of the site and as a consequence, a lack of suitable parking provision for future occupants which would result in excessive demand for

on street parking to the detriment of the overall quality and function of the area and the amenities of future occupants of the development.

In a similar manner, this proposal aims to increase the density of the site to enable an increased level of housing provision across the wider residential site. The increase in density that would result from this revision of the residential layout would result in a form of development that fails to meet the objectives of the NPPF and Policies SS11, H1, DE1, DE2, DE3, C4 and TA3 of the Torbay Local Plan, which seek to provide a high quality of development that provides a good standard of amenity for future occupiers. The proposal would result in an overdevelopment of the site. There are a number of clear indicators of overdevelopment, leading to a poor quality development, including:

- o Lack of suitable parking provision in terms of numbers and distances between parking spaces and the dwellings they serve
- o The poor quality of proposed landscaping in terms of numbers and species type
- o The poor quality residential environment as a result of small garden sizes
- o The poor quality residential environment as a result of small dwelling sizes.

### **Recommendation**

Refusal (reasons at end of report).

### **Statutory Determination Period**

13 weeks, the determination date was extended to the 29th July 2016. This has since been exceeded due to negotiations between the applicants and case officer in an attempt to achieve an acceptable scheme. Revised plans that resolve the issues set out below have not been forthcoming and as such the reasons for refusal have not been resolved. The applicant's have not agreed to extend the deadline further to allow for the application to be determined by the Committee.

### **Site Details**

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete and occupied.

The application site is located south of Moor View Industrial Estate and west of Waddeton Road. To the south and east of the site is the site subject to application references P/2013/1229 (approved) and P/2015/1126 (refused). The site to the east of Waddeton Road is currently under construction under reference P/2013/1229.

To the south of the wider residential development site is open countryside which forms part of the Off Site Landscape and Ecology Management Plan, including tree planting and a woodland walk secured as part of the outline consent P/2011/0197.

### **Detailed Proposals**

The application that is subject to this report is for full planning permission for 42 dwellings and the associated internal highway network and landscaping. The access arrangements remain the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

The proposal is to construct 42 dwellings, a mixture of detached, semi detached and terrace dwellings. The submitted plans suggest that 20% are proposed to be affordable however the agent has confirmed that they will agree the level of affordable housing provision through a section 106 agreement.

Whilst the proposal is a new full application, the application represents a revised proposal to allow for an additional 42 dwellings on top of the 350 approved at outline stage resulting in 392 residential units across the wider site but within the same area. The access arrangements to both parts of the site remains the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

As with the approved reserved matters applications for this site, the proposal has been broken down in to character areas (only 2 of the 3 character areas identified for the previous reserved matters applications apply to this application):

The 'Residential Core' forms the majority of the site. This area is largely made up of a combination of two storey terraces and semi-detached properties (there are three examples of detached dwellings).

The 'Countryside Edge' is located around the perimeter of the site and overlooks public open space and landscape. The dwellings within this section are largely semi- detached and terrace dwellings (there is one example of a detached dwelling).

The density of the application site is approximately 49.4 dwellings per hectare with 42 dwellings being provided across the 0.85ha site. The approved reserved matters applications varied in density across the three character areas. The Design and Access Statement for these applications noted that the countryside edge, which featured low density detached forms of development had a density of 25dph and within the neighbourhood core this increased to 60dph with continuous three storey terraces and flat blocks (this reflected the principles detailed at outline stage). The Design and Access Statement's submitted with these applications noted an average density across the site identified in P/2013/1229 and



P/2014/0071 as 36 dwellings per hectare excluding open space.

Each of the dwelling houses benefit from 2 parking spaces each however where these are provided by garages these would not constitute parking spaces as noted within Appendix F of the Torbay Local Plan 2012-2030.

The proposals include some on-site landscaping.

The current proposal has been screened in terms of the need for an Environmental Impact Assessment and determined that an EIA is not required. A HRA screening and where necessary an appropriate assessment will be required prior to the determination of the application.

### **Summary Of Consultation Responses**

#### Arboricultural Officer:

*Comments on Original Scheme:* For the residential element of the application there are 7 trees proposed within the layout of the 44 units. Given the positive negotiations in relation to P/2015/1126 and the quality of the tree planting that is emerging the same process needs to be applied to this application. Numbers are significantly lower and will have severely limited benefits to occupiers and external view receptors. Only limited breakup of the built form will arise and the immediate street scene will be highly dominated by engineered structures and house elevations. This may necessitate engineered tree pits in cellular systems if the density of the application is approved. This density presently restricts the achievement of the high quality outcomes of the adjacent scheme in tree planting terms.

*Comments on Revised Scheme:* The numbers of trees proposed for planting both publically and within the domestic curtilages has increased to [16] which is welcomed. Study of the plan notes a number of points where additional planting could be undertaken without adverse effect upon the amenities of the residents. It is noted that one tree species is proposed for this application, in terms of aesthetics, wildlife attributes, disease resilience and so on species diversity should be required. Variance between plans for the offsite orchard area is noted with a number of plans showing it to be fully retained where others show it as allotments. Green Infrastructure Officer comments dated 20/06/2016 in relation to the orchard are as follows, and are supported. In relation to the allotments and orchard, it is noted that the arrangement has been revised (as shown on Drawing 151102 L02 03: Composite Site Layout Rev H and Drawing 151102L 08 01: Soft Works 1 Rev I). The inclusion of orchard planting on the plans is welcomed, however it is suggested that the nine allotment plots currently located to the north of the proposed sports pavilion be relocated so that they are parallel to the northern hedgerow, with the remainder of the area set aside as an orchard. The tree report continues to effectively protect the noted trees and should be conditioned for adherence throughout any ensuing consent.

Senior Planning and Public Health Officer:

The information provided provides enough evidence to show that the proposal meets the requirements of Policy SC1 (Healthy Bay) in the Torbay Local Plan.

Senior Strategy and Project Officer:

*Comments on Original Scheme:* The additional 44 dwellings will create an additional impact upon the Western Corridor, which is a key piece of transport infrastructure in the area. I consider that this is capable of mitigation via S106 obligations to promote sustainable transport in the area. Based on the Planning Contributions and Affordable Housing SPD, Update 3 the contribution would be calculated as follows:

- o 20 x 2 bed properties at £1,720 per dwelling = £34,400
- o 22 x 3 bed properties at £2,350 per dwelling = £51,700
- o 2 x 4 bed properties at £2,710 per dwelling = £5,420
- o Total = £91,520

It is noted that 20% of dwellings are to be affordable (which would amount to 9 dwellings). Under the SPD 100% mitigation is given for social rented dwellings and 50% for intermediate housing. This amounts to around £12,480 (assuming the affordable housing tenure is as per the SPD) i.e. the sustainable transport contribution comes to £79,040.

In terms of the onsite layout, it is concerning that less than 2 spaces per dwelling have been provided which is below the requirement of appendix G of the Local Plan. From the plan there does not appear to be much provision for cycle parking or the provision of bin storage or electrical charging points.

*Comments on Revised Scheme:* As the dwellings are additional to those approved at outline, they will generate an additional traffic impact on the Western Corridor and Long Road. Therefore it is appropriate to seek highways contributions to provide improvements to the Western Corridor as identified in Policy SS6 of the Adopted Local Plan and Policy T22 of the previous Plan.

On this basis, it is considered that it is justified to seek a planning contribution towards improvements to the Western Corridor and/or improving bus accessibility in the area or reducing rat running through Long Road (probably in that order of priority). These should be sought through a S278 Agreement if possible. The Planning Contributions and affordable Housing SPD and Update 3, were based on delivering the Western Corridor and the principle of development at white Rock (albeit for employment use). Therefore, pending an update to the SPD, the figures in Update 3 remain relevant.

The calculation for these is as follows. The open market housing is:

- o 16 x 2 bed properties @ £1,720 per dwelling = £27,520
- o 15 X 3 bedroom houses @ 2,350 per dwelling= £35,250
- o 2 x4 bedroom houses @ £2710 per dwelling= £ 5,420

Total = £68,190

There are 2 x3 bed and 6 x 2 bed affordable units (19%). The transport contribution for this to be £5,007, based on a 50% discount for intermediate and 100% discount for social housing. On this basis I calculate the total transport contribution to be £73,197

In terms of the site layout, the revised plans show 2 parking spaces per dwelling [it has since been noted that this is not the case and garages do not constitute as parking space due to their small scale]. However the layout would benefit from revisions, as the current proposals have several problems. The central road serving units 9 and 13-19 appears to have no turning head which could result in reversing difficulties for deliveries, refuse vehicles etc. Some of the parking spaces are quite a long way from the dwellings they are allocated to. For example units 1-3, 7, 14, 15, 17-19, 20-22, 25, 29, 34 and 37 have parking at some distance from the dwellings. Some units' parking spaces are closer to other dwellings (e.g. unit 7, 20 and 37).

On a positive note, the garages are of a good size to provide parking and cycle storage [it has since been noted that this is not the case and the garages fall short of size standards]. However, there does not seem to be any provision for cycle storage or bin storage for units with no garage parking. The coach house units will need proper regulation to ensure that there are no nuisance or insurance liability issues; but this is largely a matter for the leasehold arrangements.

A layout that achieved parking close to the units they serve and avoids scope for nuisance and neighbour conflicts would result in a better development that would be more saleable and a better living environment.

Senior Environmental Health Officer:

*Comments on Original Scheme:* Measurements have been carried out of the noise from the factory British Falcon Plastics. It was concerning to note that the noise from the Factory was audible at Waddeton Road. This concerns me as this is 166m from the point at which I measured.

Whilst the applicant proposes a barrier which should provide a decent amount of attenuation, and solve the issue further away, there are concerns that the noise, by reason of its impulsive nature would be intrusive at the nearest of the proposed residential properties and may well be audible significantly further away than first thought.

Calculations indicate that with the barrier in place open windows will provide sufficient attenuation to meet BS 8233 good standard for accommodation, but there are concerns that during quiet periods, the impulsive nature of the noise will be audible inside properties. Because of the irritating impulsive nature, this could result in complaints. BS4142 Methods for rating and assessing industrial and

commercial sound assessment indicates that whilst complaints are not likely, there is potential should someone get fed up with the impulsive thumping noise during a hot evening.

In conclusion, it is recommended that the closest properties be fitted with a whole house mechanical ventilation system and acoustic trickle vents, this should provide ample protection for the closest houses.

Comments on the revised scheme are awaited.

Police Architectural Liaison Officer:

Recommendations made in relation to Building Regulations - Approved Document Q - Security and Secured By Design.

Green Infrastructure Co-ordinator:

*Comments on Original Scheme:* The Preliminary Ecological Appraisal (PEA) recognises the mitigation and enhancement measures secured in the on-site LEMP (discharged through condition 10 of the outline planning permission P/2011/0197) and states that the measures proposed in the Conservation Action Statement in Appendix 4 of the PEA should be in addition to those in the LEMP (rather than a replacement).

The PEA is considered to be a fair assessment of the ecological impacts of the development. It is recommended that the following is secured by condition:

- o Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement. The CEMP could be part of a wider CEMP covering the whole development site. The CEMP should be produced in accordance with clause 10.2 of BS 42020:2013 and should include full details of all ecological mitigation proposed during construction including (but not limited to):
  - o Details of protection for trees and hedgerows to be retained including buffers between new and structures and retained hedgerows
  - o Details of lighting during construction to avoid impacts on bats
  - o Results of further reptile surveys and details of proposed mitigation including reptile fencing, translocation and proposed receptor site (including habitat enhancements and on-going management)
  - o Timing of works, sensitive working methods and ecological supervision required in relation to protected species such as breeding birds (including gull buntings), reptiles and badgers
- o Submission of a lighting plan for approval by Torbay Council prior to commencement. Lighting should be designed to be sensitive to bats. External lighting should be the minimum required for safe use of the site and positioned to avoid illuminating retained hedgerows, new roosting provision and the mature oak tree in the hedgerow to the north which was identified as having potential to support roosting bats

- o Installation of 5 Schwegler type 1FR bat tubes and 5 Schwegler Type 1A swift boxes within newly constructed properties in accordance with the specification and in the locations shown on Figure 2: Biodiversity Mitigation and Enhancement Plan within the Preliminary Ecological Appraisal.

In addition it is suggested that an informative is added to any planning approval noting that the development must be carried out in strict accordance with both the on and off-site LEMPs. It should be noted that Torbay council is currently in discussion with Linden Homes regarding progress with the LEMP works.

It is considered that the overall scheme includes sufficient on site provision (open space, play, sport pitch, allotments, woodland walk etc) and therefore no further greenspace and recreation financial contributions are required.

*Comments on Revised Scheme:* Previous comments dated 8th March 2016 (attached) remain valid. The comments note that the Council is currently in discussion with Linden Homes regarding progress with the LEMP works. In respect of application P/2016/0188 for the sports pavilion, the Council's Ecologist, Mike Oxford, states (e-mail dated 24th April 2016 to Carly Perkins):

- o "I am also aware that there is a commitment to provide a new bespoke bat roost in Peter's Copse. Outline proposals were submitted as part of the original application based on designs for lesser horseshoe bats (see attached Ecosulis Figure 7 White Rock Ecological Enhancements). In light of the delay with provision of landscape mitigation I think it is an appropriate time to seek the submission of detailed proposals (both in terms of design and location) for this roost".
- o In light of failures to implement works in accordance with approved timescales etc, I also think that it would be valuable to request an 'update report' on ecological mitigation works carried out to date and those still remaining to be implemented. Following this, I would recommend a site visit to inspect both finished works and the locations for remaining further works."

It is also recommended that the detailed bat roost proposals and ecological update report referred to above are obtained prior to the approval of any planning application at this site.

Variance between plans for the offsite orchard area is noted with a number of plans showing it to be fully retained where others show it as allotments. Comments dated 9th March 2016 in relation to the orchard are as follows: "In relation to the allotments and orchard, it is noted that the arrangement has been revised (as shown on Drawing 151102 L02 03: Composite Site Layout Rev H and Drawing 151102L 08 01: Soft Works 1 Rev I). The inclusion of orchard planting on the plans is welcomed, however it is suggested that the nine allotment plots currently located to the north of the proposed sports pavilion be relocated so that they are

parallel to the northern hedgerow, with the remainder of the area set aside as an orchard."

Natural England:

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. The consultation documents provided by the authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by the authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA).

In advising the authority on the requirements relating to Habitats Regulations Assessment, and to assist in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- o the proposal is not necessary for the management of the European site
- o that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

When recording the HRA it is recommended that the Authority refer to the following information to justify the Authority's conclusions regarding the likelihood of significant effects. The wider site is subject to a Landscape and Ecological Management Plan (LEMP, January 2014, REV D), and this plan outlined the delivery of mitigation and enhancement measures to address impacts across the site. The LEMP helped to underpin the HRA conclusions. Further, it is advised that the HRA includes details of the sensitive lighting plan that will prevent detrimental light spillage upon wildlife habitats that are part of the mitigation and enhancement measures. It is important that the implementation of the mitigation and enhancement measures are phased in advance of impacts associated with the development. Prior to the granting of any permission, the authority should be satisfied that the agreed LEMP works are being carried out in accordance with the phasing.

Environment Agency:

The site is Flood Zone 1 and sites in the Critical Drainage Area are dealt with by standing advice.

Affordable Housing Delivery Officer:

Comments awaited.

Design Consultant:

*Comments on Revised Scheme only:* Concern have been raised regarding the general layout of the scheme in terms of access for refuse vehicles, the level changes across the scheme and its impact upon the level of private amenity space and the design of house elevations in terms of surveillance and urban design.

There are some unsatisfactory relationships between dwellings and their allocated parking in terms of their visibility from the dwelling house they serve and the distance between the spaces and the dwelling they serve. Such poor relationships would encourage irresponsible parking, causing nuisance and generating a car-dominated character to the development.

Rear gardens appear to be too small to provide an adequate level of outdoor amenity space.

Separation distances seem reasonable to avoid excessive inter-visibility between dwellings

A Building for Life Assessment has been carried out and achieved 2 green scores, 8 amber scores and 1 red score. Point 11 of the Assessment (Public and Private Space) did not receive a score however reference was made to concerns relating to garden sizes. Further information was requested regarding garden sizes across the development and such information has not been forthcoming.

Drainage Engineer:

*Comments on the Original Scheme:* The developer has submitted a site specific flood risk assessment in support of the application and has identified that a surface water drainage strategy has previously been agreed for this site. However the site specific flood risk assessment fails to identify that the site lies within the Torbay Critical Drainage Area. Previous site investigations have identified that the use of soakaways at this site is not feasible and as a result the surface water drainage from the development will be discharged at a controlled rate to the surface water sewer system. The controlled discharge rate has not be identified for this site however in accordance with the requirements of the Torbay Critical Drainage Area the discharge rate must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec as quoted within the flood risk assessment. No hydraulic calculations have been submitted showing that the proposed surface water attenuation tanks have been designed for the critical 1 in 100 year storm event plus 30% for climate change. No hydraulic design has been submitted to confirm that the surface water drainage system has been designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 30% for

climate change. Before planning permission can be granted the applicant must supply the details requested above.

*Comments on Revised Scheme:* The hydraulic design and proposed drainage design for this development is acceptable.

### **Summary Of Representations**

1 representation received. Issues raised:

- o Impact on residential amenity as a result of proximity of dwellings to industrial buildings.

### **Relevant Planning History**

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m<sup>2</sup> gross employment floorspace, a local centre including food retail (up to 1652m<sup>2</sup> gross) with additional 392m<sup>2</sup>A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development APPROVED

P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 APPROVED

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 PENDING CONSIDERATION subject to the outcome of this application

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated dwelling - THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 DO NOT MAKE PROVISION FOR PUBLIC COMMENT ON REQUESTS FOR SCREENING/SCOPING OPINIONS EIA NOT REQUIRED

P/2016/0094 Erection of 44 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to



a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park PENDING CONSIDERATION

P/2015/1126 215 dwellings and associated infrastructure PENDING CONSIDERATION

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

The key issues to consider are the principle of development, appearance, scale, layout and highways matters, parking, waste and recycling facilities, biodiversity, landscape, drainage, affordable housing and residential amenity.

#### **Principle:**

The site is identified within the Torbay Local Plan (SDP3.5) as a committed strategic mixed use employment/housing development that will provide 8.5ha of employment land, around 1,200 jobs and around 350 dwellings largely over the first half of the Plan period. Outline consent has also been granted for the mixed use development of the site. This application was approved subject to extensive consultation and was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. Whilst this proposal is for dwellings in addition to the 350 dwellings approved at outline stage, the principle of residential development in this location was established by this application and subsequently two reserved matters applications were approved for the residential elements of the site.

This application remains in accordance with the indicative layout submitted as part of the outline application albeit at a higher density and increased number of dwellings. The scheme does not specify a level of affordable housing however the agent has confirmed that they would agree this through a section 106 agreement. Policy H2 states that for proposals of 30 or more dwellings on greenfield sites, 30% of dwellings on site will be affordable housing of which 5% will be self build plots in accordance with policy H2 and H3. Information confirming the level of affordable housing to be provided has been requested but has not been forthcoming. However it is noted in line with policy H2 of the Torbay Local Plan, where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment. In this instance no viability assessment has been submitted that would justify a provision of affordable housing which is less than policy compliant and were the application to be approved the level of affordable housing would need to be agreed prior to determination.

Policy DE2 of the Torbay Local Plan states that major development proposals with a residential component will be assessed against 'Building for Life' criteria. This policy states that development proposals will be supported by the Council when it secures as many 'green lights' as possible. When a development proposal does not reduce the number of 'amber' and 'red lights' scored in the assessment, where

a reduction is considered possible and such reduction would improve the quality of the development, the Council will not grant planning permission. The latest assessment (see appendix 1 of this report) has resulted in a score of 1 red, 8 amber and 2 greens.

It is considered that the number of red and amber scores can be reduced and that this reduction would improve the quality of the development in terms of residential and local amenity enjoyed by occupiers of and visitors to the site. It is also noted that the outline application which established the principle of development in this location required the residential development to achieve a minimum of 8 greens and that this proposal would fall significantly short of this figure.

Appearance:

There are various different house types across the site, the majority of which are simple and contemporary in design with slate grey tiled pitched roofs, rendered walls and upvc windows, doors and fascias. If the application were to be approved a condition requiring the submission of details of external materials to ensure a high quality residential environment would be imposed.

The appearance of the dwelling houses is considered largely acceptable and in keeping with the remainder of the approved residential scheme that is not subject to this application. However, as identified by the Council's Urban Design Consultant, the new layout includes a number of blank 'gable end' elevations to the public realm and to spaces where some natural surveillance ought to be provided in order to improve the sense of safety and security of the development. The inclusion of ground floor windows to a number of units and the inclusion of projecting bay windows would help to improve the design and articulate the form of the buildings. Revised plans taking these comments in to account have not been forthcoming.

Whilst in isolation this may not warrant the refusal of the application, there are other issues which cumulatively result in a lesser quality living environment such as a lack of landscaping, small scale dwellings and gardens and streets dominated by car parking. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions". Consistent with these paragraphs, policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

It is considered that the development would not constitute high quality design nor would it improve the quality of the area contrary to both local and national policy.

Scale:

The visual impact of the development was a key factor of the outline application. This resulted in the location of the residential element of the scheme being contained within a 'bowl' in the landscape, with open amenity space to the east on the ridge. An off-site LEMP was produced which included extensive tree planting along the south of the site to further screen the development particularly from the Stoke Gabriel and Galmpton Areas (South and West). An on site LEMP has also been secured as part of the approved schemes which provides further landscaping enhancements.

As was the case with the previously approved reserved matters applications, the character areas 'Residential Core' and 'Countryside Edge' are limited to two storeys. The scale of the development has increased over the wider residential area with the increased density of the dwellings in order to provide additional two bedroom dwellings. As a result the features of the individual character areas approved as part of the original reserved matters applications, particularly those within the lower density areas of the site, have been weakened somewhat. As identified at outline stage where the principle of residential development here was established, the mix of densities across of the wider residential development site helped to contribute to the creation of clearly identifiable character areas throughout the development. As the density of the development has increased this has weakened the character of each of the areas largely due to the change in house types resulting in longer terraces, increased instances of terraces across both character areas and a reduced number of detached dwellings in areas which are characterised by such lower density development.

The Design and Access Statement submitted with the application describes each of the character areas within the application site. The statement notes that the proposed scheme falls within two of the character areas established in the approved reserved matters schemes and that each character area is defined by differences in layout, building height, form, position, plot sizes, boundary treatment, architecture and public realm. Whilst the name of the character areas reflect those identified within the approved reserved matters schemes, the proposal now submitted differs in form, layout, position and plot sizes such that the character areas are not clearly identifiable with a similar density and building form being provided across the entire application site. Dwellings in both character areas tend to be positioned in close proximity to the access road/path serving the dwellings and where this is not the case, car parking is positioned to the front of dwellings reducing the sense of spaciousness particularly in areas defined as the 'countryside edge'.

The number of dwellings has increased and therefore so has the density. It is accepted that there is scope to increase the density of development on the site. However the resulting development needs to meet the objective of providing high quality living environment for all residents. A core planning principle in the NPPF

is to "secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". This point is reiterated at paragraph 58 of the NPPF which states that decisions should aim to ensure that developments "create attractive and comfortable places to live, work and visit".

In this case the revision to the scale of development has implications for the quality of residential environment that will be created. As identified below, the proposal results in a greater number of dwellings where parking is remote from the dwelling it serves and an instance where parking is positioned in front of another dwelling. This together with the size of dwellings and gardens is an indicator that the scale of development may be excessive resulting in the proposed layout failing to meet the objectives of Policy H1 and DE3 which seek to provide a good level of amenity for occupiers. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

#### Layout and Highways Matters:

The principle access points to the development are from Long Road and Brixham Road. A new section of road is already in situ, enhancing Waddeton Road and including a roundabout with access in to the development site. An issue has been raised in comments from the Council's Design Consultant and Senior Strategy and Project Officer with regard to the central street serving units 9, 13-16 and whether this is suitable in terms of tracking of a refuse vehicle as a suitable turning head does not appear to be provided. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

Policy SS7 of the Torbay Local plan states that major developments will be expected to contribute to the provision of an appropriate range of physical, social and environmental infrastructure, commensurate to the type and scale of development, and the needs of the area. In addition policy SDP3 notes that development within Paignton North and Western areas should be accompanied by upgraded infrastructure, including along the Western Corridor. In line with the comments from the Council's Senior Strategy and Project Officer, the additional 42 dwellings will create an additional impact upon the Western Corridor, which is a key piece of transport infrastructure in the area. If the application were to be approved, mitigation would be required via S106 obligations to promote sustainable transport in the area.

#### Parking:

The previously approved reserved matters schemes had a number of dwellings which only benefitted from one parking space. The percentage of dwellings with only one parking space approved as part of the original reserved matters schemes was 8%. On balance this was considered acceptable and in accordance with policy at the time of decision with policy T25 of the Torbay Local Plan 1995-2011 (now superseded) noting parking requirements as maximum guidelines.

The proposed plans indicate a parking provision of two spaces per dwelling unit however this provision includes garages, examples of remote parking and unsatisfactory relationships between dwellings and their associated parking areas. Such examples are likely to result in unacceptable parking on pavements and generate a car dominated character to the development. There are ten examples of garages throughout the development and these fall short of size standards noted within Appendix F of the Torbay Local Plan 2012-2030. As noted within Appendix F, garages will only be counted as a parking space where they are large enough to accommodate a car and provision for general storage which is detailed as 6m by 3.3m as a minimum where separate cycle storage is provided. Where cycle storage is not provided this minimum size standard increases. As such ten of the dwellings on site only benefit from 1 parking space (it is noted that two of these are coach houses) as the garages would not constitute as car parking spaces due to their size being limited to only 5.5m by 2.7m in eight instances and 3m by 6m in two instances.

Policy TA3 and the associated appendix F states that the Council will require appropriate provision of car, commercial vehicles and cycle parking spaces in all new development and that development proposals will be expected to meet the guideline requirements as set out in Appendix F. Appendix F states that dwelling houses will be expected to provide two parking spaces per dwelling unit and explains that in locations such as town centres where there is a greater choice of transport, this standard may be reduced. The application site is not within a town centre location and whilst there may be some services within walking distance of the development this is not extensive and due to the scale of the development one parking space per dwelling house for 19% of the plots is likely to result in on-street parking issues. Such issues are already apparent within parts of the development already in occupation with cars parking on pavements and on street. The percentage of dwellings with only one parking space approved as part of the previous reserved matters application is a material consideration and has been considered as part of this recommendation. The current scheme exceeds this percentage by 11% and would not meet the policy requirement set out within policy TA3 and appendix F of the Torbay Local Plan 2012-2030. On balance having considered both the previously approved schemes that are capable of implementation and the current policy requirements, the reduced number of parking spaces is not considered acceptable. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

Where garages are provided they are not of a size suitable to provide waste and cycle storage and there is no provision shown for dwellings that do not have a garage. The submitted plans do not identify the provision of waste, recycling or cycle storage facilities or electrical charging facilities and therefore were this application to be considered suitable for approval a condition requiring details of this provision would be required.

### Landscaping and Biodiversity:

As part of the outline application, off-site landscape mitigation and enhancement works (Landscape and Ecological Management Plan secured by S106) include significant belts of woodland planting on land to the south, including a belt immediately south of the southern boundary. This planting will provide a strong landscape buffer between the development and undeveloped countryside to the south.

The increased number of dwellings is not considered to have a significant effect on the visual permeability of the development in light of the structural planting proposed to the south which will act to contain the wider site once established. In addition, and in light of this structural planting, the proposal is not considered to result in significantly greater impact in views from the AONB to the south or views from the South Hams.

In terms of on-site landscaping there are 16 trees proposed within the residential layout.

Policy C4 of the Torbay Local Plan states that proposals for new trees will be a specific requirement of proposals in Strategic Delivery Areas and policy DE1 states that proposals will be assessed against their ability to meet certain design considerations, with one identified as being the provision of high quality soft landscaping. In line with the comments from the Council's Arboricultural Officer tree numbers are low and will have very limited benefits to occupiers and external view receptors. The site is still considered to be highly dominated by built form and due to the limited number of trees they will do little to soften the development. The tree numbers and species proposed are not considered suitable for this proposal in terms of visual impact, biodiversity enhancements and disease resilience. This issue has been brought to the agent's attention and revised plans have been requested in order to overcome the issues detailed however these have not been forthcoming.

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. It is recognised that the development needs to be screened in terms of the Habitat Regulations Assessment, which has to be carried out prior to the decision being issued. The comments from Natural England are however noted; these comments confirm that the site is not necessary for the management of the European Site and that the proposal is unlikely to have a significant effect on any European Site and can therefore be screened out from any requirement for further assessment. This will however be formally assessed through a screening exercise.

Comments from the Council's Green Infrastructure Co-ordinator are noted. The Green Infrastructure Co-ordinator has recommended several conditions relating to the submission of a Construction Environmental Management Plan, a lighting plan and the installation of bat tubes and swift boxes. The off-site LEMP should be unaffected by this proposal and the trigger points previously agreed as part of the original outline application for the wider site will remain in place. If this application is approved amendments may be required to the on-site LEMP and this will be considered further in consultation with the Green Infrastructure Co-ordinator in the event that the application is to be recommended for approval.

Residential Amenity:

There are 42 new dwellings being provided within the scheme, this comprises:

23 two bed houses  
17 three bed houses  
2 four bed houses

There are a range of house sizes proposed with each benefitting from a private rear garden. Policy DE3 states that all development should be designed to provide a good level of amenity for future residents and will be assessed in terms of the provision of useable amenity space and an adequate level of floorspace to achieve a pleasant and healthy living environment along with other criteria. The supporting paragraph to policy DE3 states that all new homes should provide a good standard of accommodation having regard to safety, space, amenity, parking and design. In addition it states that regard will be had to the Government's Nationally Described Space Standard. 23 (55%) of the proposed 42 dwellings fall below the size standards noted within the space standards (including the sizes of internal rooms specifically the master double room). Whilst it is noted that such standards will be applied flexibly to developments with regard to viability and other considerations, this continues to reinforce concerns relating to the overdevelopment of the site.

In addition to internal floorspace, policy DE3 also makes reference to the scale and quality of outdoor private amenity space stating that developments will be assessed against the 'provision of useable amenity space, including gardens and outdoor amenity areas'. Paragraph 6.4.2.14 follows on from this stating that 'New dwellings should make provision for external amenity/garden space where possible... As a guideline, a minimum space of 55 square metres for houses... will be sought'. Policy DE2 which refers to Building for Life also include specific reference to amenity space. Whilst it is recognised that there is public open space provided as part of the wider residential development several of the proposed units fall well below this standard with some units providing garden space of approx. 22sqm in area and coach houses having no private amenity space. This shortfall is another indicator that the density of the development is excessive for this site. It is noted that another point of DE3 is to make good use of land whilst avoiding town cramming, the guidance suggests a minimum density of 30 dwellings per hectare,

although no maximum is provided this development is in excess of 30 dwellings per hectare suggesting that there may be opportunities to provide larger dwelling and garden sizes to ensure a quality development for future occupiers. As explained in earlier paragraphs there is a shortfall in parking provision and several examples of remote parking which could lead to on street parking and irresponsible parking resulting a car dominated development. This would also have an impact on the residential amenities enjoyed by the occupants of the development. A reduced density of dwellings would improve this situation.

The site is located south of the industrial estate and concerns have been raised by one of the occupiers of these units in terms of the impact on the occupiers of the proposed residential development as a result of noise from the existing industrial units. In order to overcome the issues with noise, a 3m acoustic fence is proposed along the northern boundary of the site as noted within the submitted noise assessment and the orchard planting adjacent to the site will work to provide a buffer between the residential units and specifically the British Falcon Plastics building. The submitted noise assessment also states that acoustically rated trickle ventilators are proposed to bedrooms at plot 25 and acoustically rated trickle ventilators are proposed to bedrooms and living rooms at plot 26. The plots numbers have since been amended with revisions to the layout and housing numbers, it is therefore assumed that unit 24 would instead require such mitigation measures. All plots are then to have standard thermal double glazed units and doors.

The previous reserved matters approval included conditions requiring the implementation of the acoustic fence prior to the occupancy of phase 2 and 3 and the submission of an updated noise assessment following the construction of the acoustic fence and properties 3-6 and 61-65 to prove that the fence is delivering the acoustic attenuation levels set out in the noise assessment. In the event that such levels of acoustic attenuation could not be provided further acoustic attenuation measures to deliver the attenuation levels set out would be required and installed prior to the first occupation of the properties 3-6 and 61-65. Further conditions also ensured that prior to the occupation of properties 3-6, the properties be fitted with standard thermal double glazing operable acoustic trickle vents to all first floor windows on the rear and sides of the building. In addition it was also conditioned that prior to the first occupation of properties 3-6 and 61-65 a noise assessment be undertaken to demonstrate that at night time the internal noise levels in the upper floor habitable rooms of these properties with an open window do not exceed the 'good' standard of BS 8233:1999 and the 'reasonable' standard for individual noise events. In instances where this could not be demonstrated, details of further acoustic attenuation measures to deliver the attenuation levels set out shall be submitted, approved and installed prior to the first occupation of properties 3-6 and 61-65.

If the application were to be recommended for approval, such conditions would be applied to those closest to the industrial units, plots 24, and 1-6. The Senior



Environmental Health Officer's comments request a condition relating to the inclusion of mechanical ventilation to those dwellings closest. Further consultation is being carried out with this Officer to confirm specific plots numbers that such a condition should apply to and whether the previously agreed mitigation is suitable in light of the revised layout. It is noted that plot 24 is much closer to the existing industrial units being only a minimum of 7m from the nearest industrial unit whereas units approved under reserved matters application P/2013/1229 was separated by approximately 20m. Subject to the inclusion of the conditions outlined above in the event of an approval, the noise mitigation measures identified would reflect and improve upon those proposed within the approved reserved matters schemes.

**Drainage:**

The site is within a Critical Drainage Area and as such in accordance with policy ER1 of the Torbay Local Plan, the discharge rate must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 30% for climate change. A revised drainage scheme has been submitted and the Drainage Engineer has confirmed the acceptability.

**S106**

The development will result in a greater impact on local infrastructure than the originally approved scheme for land West of Brixham Road had. The s.106 agreement for the original development secured sustainable development contributions and the Adopted SPD 'Planning Contributions and Affordable Housing' indicates that a financial contribution would be required to meet the impact of the development on local infrastructure.

In the event that the application be approved appropriate financial contributions (towards sustainable transport, education, and waste management) will be sought in accordance with the Adopted SPD Planning Contributions and Affordable Housing' and in agreement with the applicant. Where appropriate, amendments to the on-site LEMP will be secured via the section 106 agreement.

The contributions would be requested as follows:

Waste Management: £2,100  
Sustainable Transport: £71,700  
Education: £22,740  
Lifelong Learning: £9,220  
Total: £105,760

The amount above has been calculated on the basis of the affordable housing provision indicated on the plans. As noted below this is below the policy compliant level, the amount and tenure of affordable housing would alter the figure noted

above. This figure is based on 8 of the 42 dwellings proposed being affordable and/or social rent rather than intermediate housing.

For proposals of 30 or more dwellings on greenfield sites, 30% of dwellings on site will be affordable housing of which 5% will be self build plots in accordance with policy H2 and H3. In line with policy H2 of the Torbay Local Plan, where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment. In this instance no viability assessment has been submitted that would justify a provision of affordable housing which is less than policy compliant.

### **Conclusions**

In conclusion, the principle of revising the approved residential layout to increase the density of development is considered acceptable. However the submitted scheme fails to meet the objectives of Policies SS11, H1, DE1, DE3, C4 and TA3 in the Torbay Local Plan to provide a high quality form of development with a good level of amenity for all residents and would constitute an overdevelopment of the site as a result of poor quality landscaping, small scale dwellings, lack of useable private amenity space and a lack of suitable parking provision in terms of numbers and distances from dwellings to which they serve. The proposed form of development would detract from the residential amenities of occupants and visual amenity of the site and is therefore considered contrary to Policies in the Torbay Local Plan and the NPPF and would be unacceptable.

Whilst the agent has indicated that affordable housing provision will be agreed through a section 106 agreement, information submitted to date indicates that this will not be to a policy compliant level and no information has been submitted by way of a viability assessment to justify this. Irrespective of this a section 106 agreement has not been pursued as the application is recommended for refusal and therefore this, together with the lack of section 106 contributions has been added as a reason for refusal for matters of protocol.

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

01. The proposal would constitute an overdevelopment of the site and fail to deliver a high quality living environment or a good standard of amenity for future occupants as a result of poor quality landscaping, small scale dwellings, lack of useable private amenity space and a poor parking arrangement in terms of numbers and distances from dwellings they serve contrary to paragraph 17, 56 and 58 of the National Planning Policy Framework and policies SS11, H1, DE1, DE2, DE3, C4 and TA3 and associated Appendix F of the Torbay Local Plan 2012-2030.
02. In the absence of any signed legal agreement or upfront payment under Section 106 of the Town and Country Act 1990 (as amended), the scheme

fails to satisfy the objectives of Local Plan Policy SS6 and SS7 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" and the associated "Update 3 Paper", which seek to secure the delivery of physical, social and community infrastructure directly related to the development and necessary to make it acceptable in spatial planning terms. In the absence of secured contributions in line with the adopted policy the proposal is therefore contrary to Policy SS6 and SS7 of the Torbay Local Plan 2012-2030 and guidance outlined within paragraphs 203 and 204 of the National Planning Policy Framework.

03. The proposal fails to make appropriate provision for affordable housing in line with Policy H2 and H3 of the Torbay Local Plan 2012-2030 and in the absence of the a viability assessment to justify a lower level of affordable housing provision the proposal is contrary to Policy H2 and H3 of the Torbay Local Plan 2012-2030.

#### **Relevant Policies**

SS11 - Sustainable Communities Strategy

SDP3 - Paignton North and Western area

H1LFS - Applications for new homes

H2LFS - Affordable Housing

H3LFS - Self build affordable housing

DE1 - Design

DE2 - Building for life

DE3 - Development Amenity

C4 - Trees, hedgerows and natural landscape

TA3 - Parking requirements

SS6 - Strategic transport improvements

SS7 - Infrastructure, phasing and employment

ER1 - Flood Risk

ER2 - Water Management

W1LFS - Waste hierarchy

TA1 - Transport and accessibility

SS8 - Natural Environment

NC1LFS - Biodiversity and Geodiversity

# Agenda Item 5

## Appendix 1

*Torbay Council Planning Service - Design Guidance*

Project Title: Residential Development (app. Ref. P/2016/0094)

Location: White Rock, Brixham Road, Paignton

Status: Advice on Planning Submission

### 1.0 The General Layout

1.1 Has the central street serving units 9, 13-16 been tested in terms of the tracking of a refuse vehicle? It is difficult to identify a suitable turning head.

1.2 Earlier layouts indicated changes of level between rear gardens in the centre of the site (in the vicinity of party wall between units 27/28 and running north-south across the whole development). How has this been resolved in the current proposals and will the rear gardens now shown be reduced in their size by the need to accommodate retaining structures? Site cross sections should be provided to show the proposed levels through the most challenging parts of the site.

1.3 The new layout presents a number of blank 'gable end' conditions to the public realm and to spaces where some natural surveillance ought to be provided in order to improve the sense of safety and security of the development. The inclusion of windows to ground floor habitable rooms should be provided on the following units. Those marked with an asterisk\* would also benefit from being some form of projecting or 'bay' windows, in order to articulate the form of the building in a location that is important for the urban design of the layout:

Unit 1

Unit 5 (N and S gables)

Unit 6

Unit 9

Unit 12\*

Unit 13

Unit 15

Unit 17

Unit 19\*

Unit 20

Unit 23\*

Unit 24 (S gable)

Unit 25

Unit 26\*

Unit 30\*

Unit 35

Unit 40 \*

1.4 In addition, the parking areas between units 30 + 31 and 32 + 33 may be vulnerable if no over-looking of these spaces is provided. Smaller windows in these locations may suffice and therefore avoid creating problems of potential inter-visibility between dwellings.

## 2.0 **Parking Spaces**

2.1 The increased provision is welcomed but there are still some unsatisfactory relationships between some of the dwellings and their allocated parking:

Units 1, 2 + 3 – parking remote / not visible from the dwelling

Units 18 + 19 – parking remote / not visible from the dwelling

Unit 20 – parking remote from dwelling

Unit 25 – parking remote from dwelling

Unit 29 – parking remote from dwelling

Unit 37 – parking remote from dwelling

Units 75 + 76 – length of parking driveway encourages casual parking of additional vehicle which will obstruct the pedestrian pathway

2.2 In situations where parking has been provided in remote positions and in locations that cannot be casually surveyed by the householder, then this provides great incentive for casual and irresponsible parking on pavements and other parts of the public realm in closer proximity to the dwellings, causing nuisance and generating a car-dominated character to the development.

2.3 In addition, the parking provision for unit 7 is awkward – being located in front of the neighbouring dwelling – the layout here might be adjusted to avoid this?

## 3.0 **Garden Sizes**

3.1 Rear garden spaces still seem to be too small for the following dwellings:

Units 11 + 12

Units 29 + 30

Unit 34

Unit 35

3.2 Many other rear gardens seem to be 'borderline' in terms of the private amenity space that they might be able to provide to residents. Could a schedule of the external space provided for each dwelling be submitted as additional evidence of the standards being achieved?

## 4.0 **Inter-visibility between Dwellings**

4.1 These concerns, that might give rise to a lack of privacy and encourage excessive over-looking of properties, seem to have been successfully dealt with and separation distances now seem reasonable in the revised layout.

## 5.0 Building for Life 12 Assessment

### 5.1 We provide and update below of the earlier advice about the performance of the design against the 12 Building for Life Criteria. (New/revised observations in bold)

1. *Connections: Does the scheme integrate into its surroundings by reinforcing existing connections and creating new ones, while also respecting existing buildings and land uses around the development site? This has been scored red, no evidence has been provided to allow a different score. The statement should refer back to plans and sections of the design and access statement or other supporting statements. **Information on p41 of the D+A Statement now adequately describes this – green score, but we must here note the proximity of the noisy industry to the North and the need to mitigate this effect on the residential amenity of the site.***

2. *Facilities and services: Does the development provide (or is it close to) community facilities, such as shops, schools, workshops, parks, play areas, pubs or cafes? This has been scored red but is likely to score amber once further evidence has been submitted. Amber is used where there is clear evidence of local constraints on the scheme beyond the control of the design team that prevent it from achieving a green. In this case the provision of the local centre is outside of the applicants control however the local shops and services at Kingsway may be relevant. The capacity of the local schools (primary and secondary) as well as the distance from the site should also be referred to here. As discussed in our meeting you may want to refer back to the transport assessment submitted as part of the outline application. **Information on p42 of the D+A Statement now adequately describes this – amber score since provision of the local centre, which will be key in satisfying this question, remains beyond the control of the development.***

3. *Public transport: Does the scheme have good access to public transport to help reduce car dependency? This has scored amber and refers to the potential for a bus service to serve the development. Further evidence is required to achieve a green score. **Information on p42 of the D+A Statement now adequately describes this – amber score since access is relatively good, but could be improved by the additional bus service described.***

4. *Meeting local housing requirements: Does the development have a mix of housing types and tenures that suit local requirements? This has scored a red and further evidence is required to achieve an amber or green score. This should refer to reasons why this mix of housing has been chosen even if this is largely based on market forces. Similarly I would advise that you refer to advice you have received in terms of the affordable housing needs and the evidence set out within the housing needs assessment for Torbay. This should also reference relevant plans, design and access statement etc. The Building for Life guidance also specifically recommends not reducing the level of parking provision for rented/shared ownership homes, whilst it is not only these homes that in some cases only have one parking space, this is also something to consider when assessing the proposal against this particular criteria. **Information on p42 of the D+A Statement still does not fully describe this – but the***

**weak parking provision has been addressed - amber score, which could and should be improved by the supply of a clearer justification as discussed above.**

5. *Character: Does the scheme create a place with a locally inspired or otherwise distinctive character? The scheme follows the principles of the previous scheme and therefore has scored a green. **Amber score – character has been strengthened in terms of adjustments to layout, but requirement for fenestration on gable ends (see 1.3 above) that have now become exposed - in order to avoid presentation of blank facades.***

6. *Working with the site and its context: Does the scheme take advantage of existing topography, landscape features (including water courses), wildlife habitats, existing buildings, site orientation and microclimates? Revisions to the scheme will be required in terms of landscaping however this should be capable of scoring green subject to these revisions. **Amber score – see note 1.2 above – fuller information required to confirm a green score.***

7. *Creating Well Defined Streets and Spaces: Are buildings designed and positioned with landscaping to define streets and spaces and are buildings designed to turn street corners well? This has scored a red due to the amount of dwellings which only benefit from one parking space and the instances where parking is remote from dwellings which is likely to result in streets being dominated by on street parking. The building for life guidance recommends that proposals avoid an overreliance on in front plot parking that can create streets being car dominated unless there is sufficient space to use strong and sufficient landscaping to compensate. It is noted that further landscaping will be required which may help to overcome some of these concerns. Further evidence and revisions to the scheme are required to achieve a higher score. **Amber score – see notes under 1.3 and section 2.0 above – these improvements should be addressed in order to achieve a green...***

8. *Easy to find your way around: Is the scheme designed to make it easy to find your way around? This has scored a green however there are examples where parking is remote from the dwelling which it serves and this could cause difficulties. It is noted that the building for life guidance recommends that proposals avoid layouts that separate homes and facilities from the car, unless the scheme incorporates secure underground car parking and as such it is recommended that instances where this occurs are reduced. **No change – green score, but these earlier notes are still relevant and could be addressed to good effect. The text on p.43 of the D+A statement could usefully be updated to discuss the revised layout. The new layout is slightly weaker in terms of legibility for those in vehicles, but considered adequate for this ‘fringe of development’ location. The recommendations for inclusion of oriel or bay windows under point 1.3 above will aid legibility for pedestrians.***

9. *Streets for all: Are streets designed in a way that encourages low vehicle speeds and allow them to function as social spaces? This has scored a red. Similarly to number 7, this is due to the amount of dwellings which only benefit from one parking space and the instances where parking is remote from dwellings which is likely to result in streets being dominated by on street parking preventing the use of the street as social and play spaces. **The adjustments to***

***the parking provision and other layout changes have improved this score to amber but there are still improvements that could and should be attempted as noted. See 2.3 and mention of units 75 + 76 under 2.1 above.***

10. Car Parking: Is resident and visitor parking sufficient and well integrated so that it does not dominate the street? This has scored a red due to lack of adequate parking provision for some plots and the instances where parking is remote from the dwelling which it serves. This element of the assessment should also include reference to how you have anticipated the car parking demand for this proposal. This should take into account the location, availability and frequency of public transport together with local car ownership trends. This should also refer to the availability of visitor parking and where this has been provided. Building for life guidance also recommends that proposals make sure that occupants can see their cars from their homes. ***Provision of more parking spaces in the revised layout is welcomed and improves the score, but only to amber – very little information on strategy for provision of visitor parking and although some spaces are shown as not allocated on the plan, these would appear to be too closely linked to individual dwellings to be understood as available for visitors. Clearer distinction/identification would be helpful. Bank of parking serving units 25,26,29,37 is unfortunately positioned as a ‘stop vista’ at the end of main access street – landscape could and should be introduced to screen this (although outside the current red-line).***

11. Public and Private Space: Will public and private spaces be clearly defined and designed to be attractive, well managed and safe? Whilst this has scored green, there are examples where proposed gardens fall below the recommended sizes for private amenity space and could be improved. ***See further observations on garden sizes under section 3.0 above.***

12. External storage and amenity space: Is there adequate external storage space for bins and recycling as well as vehicles and cycles? This has scored a red due to the lack of evidence and is likely to be improved following the submission of further information within the design and access statement. ***Score remains as red - see notes above under 1.1, 3.0. What strategy is proposed for the coach-house units (with no rear garden space)?***



# Agenda Item 6

**Application Number**

P/2016/0188

**Site Address**

Land West Of Brixham Road, Paignton

**Case Officer**

Carly Perkins

**Ward**

Blatchcombe

**Description**

Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park (proposal/description amended 5 April 2016)

**Executive Summary/Key Outcomes**

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071 for the dwelling houses. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of dwelling houses complete.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west of the site is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

The proposals are a provision of the section 106 agreement secured at outline stage. The sports pavilion and public open space must be completed prior to the occupation of the 250th dwelling. The proposal is for a full size senior FA 3G football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x 18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The proposal includes parking provision and some landscaping. It is understood that the proposals will be managed by South Devon College.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. It is considered that insufficient information has been submitted to demonstrate that the development (particularly the floodlighting) can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and

materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

### **Recommendation**

Refusal, reasons for refusal are set out at the end of the report

### **Statutory Determination Period**

13 weeks, an extension of time to determine the application has been agreed up to the 19th August 2016.

### **Site Details**

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071 for the dwelling houses. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of dwelling houses complete and occupied.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

### **Detailed Proposals**

The proposal is for a full size senior FA 3G football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x 18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The sports pavilion is single storey and features a shallow pitched roof. The sports pavilion has a floor area of approximately 550sqm. The proposal includes parking provision and some landscaping.

### **Summary Of Consultation Responses**

#### **Arboricultural Officer:**

The proposed trees lack the potential mature height and spread required to screen the proposal. The tree species selected are of only limited internal benefit and in the example of the Japanese maple, will struggle to establish and achieve any stature greater than that of a large shrub. This is amplified by the open topography of the site amongst the wider field systems. Tree numbers are low

given the size of the site and increased density is necessary with attention given to important boundaries where screening will be required from residential areas.

The scheme is suitable for approval on arboricultural merit subject to the proposed tree species being substituted for species capable of attaining a height and spread significant enough to effectively screen the proposal and are suitable given the character of the surrounding area, increased numbers of trees across the site and hedge/ tree protective fencing plan to be submitted prior to any commencement on site that is based upon an arboricultural survey in accordance with BS5837.

No additional information has been submitted in relation to the comments above however a letter of justification was provided to which the Arboricultural Officer responded as follows:

"The letter makes comments addressing the arboricultural concerns with the hedge management being covered by the management proposed in the outline proposal for the White rock development; however it does not address specific tree protective fencing for the existing hedgerow. Screening is addressed by reference to the single storey height of the building and MUGA and thus it is suggested that the proposed landscaping is sufficient to screen. However the species suggested do not reliably exceed the height of the proposed building and are incapable of attaining a sufficient scale to be the dominant landscape feature of the proposal site. Therefore the landscaping is insufficient to prevent the proposal from having a negative impact on the South Hams AONB."

Senior Strategy and Project Officer:

The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would come to a greater number of spaces if the external space was taken into account. There is concern about parking spilling out onto surrounding residential streets. A Transport Statement has not been submitted to justify the proposed parking level. Given that there could be a significant impact on the area, it is considered reasonable to request a Transport Statement, and a Travel Plan to maximise the use of sustainable transport.

Irrespective of the above, a minimum of 4 spaces or 10% of spaces should be provided as spaces for disable persons (to dimensions of 4.8m x3.6m, or where side by side 4.8x2.4 with a minimum of 1.2m between them). . Appendix F of the Torbay Local Plan also states that all new development should include provision for electric charging points and their necessary infrastructure.

The application is within the LEMP (Policy SS9.3) and close to the boundary with South Hams. Therefore the impact of the development, lighting etc on the landscape and biodiversity will need careful consideration. It is acknowledged that this may impact upon parking provision, but this does not obviate the need

for the parking provision to be justified.

Paragraph 8.1.3 (p58) of the Transport Assessment indicates that the trip rate has not been calculated for the pavilion building, which will primarily serve the new community within the masterplan area, and that community events will take place at weekends and evenings outside peak travelling times. Whilst this is good from a junction capacity point of view, it could mean that parking may spill over onto the streets at a time when there are lot of cars parked already, albeit only at match times.

The Adopted Local Plan seeks 1 parking space per 25 sq m of floor space. Whilst this would not be applied to the MUGAs and the 3G pitch, provision should be made, particularly for the 3G pitch. The detailed plan shows covered seating for 50 spectators and 160 standing spaces. In addition, the teams on the pitch could amount to up to around 75 people at team cross-over times.

On this basis, there would appear to be a shortfall in parking. The applicant should justify the parking level proposed and see whether alternative solutions can be found such as provision of overspill car parking (e.g. at South Devon College). In any event it would be preferable to encourage greater use of walking, cycling and public transport as an alternative to requiring the provision of hundreds of car parking spaces. A Travel Plan would be a way of encouraging this, and is directly related to the reserved matters.

It is noted that there may be some sensitivity with the LEMP and landscape impact (especially given that the pitch will be floodlit), which is another reason why demand management is more likely to be an acceptable solution than providing car parking up to the required standard.

Provision should also be made for cycle parking. This would be part of the travel plan measures noted above.

In response to the revised plans submitted the Senior Strategy and Project Officer noted the following:

"I am happy that the revised plans make provision for electrical charging points, cycle provision and increased disabled parking. The disabled spaces should be a minimum of 4.8m x3.6m as per Appendix F of the Local Plan. It would also be appropriate to get details of the 6 secure cycle spaces, either now or through a condition. However I am pleased that these changes have been made, which improve the proposal.

Turning to parking provision. It is accepted that the parking slightly exceeds the requirement for the building floorspace. The Local Plan sets no standard for pitch area, but it is reasonable in the context of Policy TA3 to ensure that there are not severe problems with parking overspilling into residential areas during high

demand times. Conversely it is accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. It would therefore make sense to seek to ensure that alternative provision can be made for overspill parking at the College. Peak demand for the sports pitches will be evenings and weekends when the college's car park is likely to be less used."

Police Architectural Liaison Officer:

Opportunities to design out crime, antisocial behaviour (ASB) and conflict have been considered and incorporated into the layout and design of the proposal. Having carried out a basic crime pattern analysis, specifically for Sports Pavilions, it is advised that theft and criminal damage are the most reported offences, as such it is recommended that the Sports Pavilion is constructed to comply with the standards and specifications of Secured by Design to ensure a consistent level of security throughout and opportunities for criminal activity and misuse or abuse of the facilities are minimised.

The proposed 4.5m fencing will assist well in securely enclosing the site preventing unauthorised access and the type of fencing will enable good surveillance opportunities in to the spaces.

It is recommended the pedestrian access to the right side of the Pavilion is made inaccessible to prevent providing those with criminal intent a legitimate excuse for access the building and changing rooms. The gated accesses into the MUGAs must be capable of being locked when not in use.

There should be no access to the left of the Pavilion or the space is left as open to view as possible to prevent creating a concealed area as this can provide cover for doors and windows to be tampered with. Any trees here should not be positioned so they can be used as climbing aids up onto the roof and the proposed choice of trees should have trunks that are clear of foliage (approx 2m) to enhance surveillance into the space.

The outside storage container for equipment is noted. Initial generous storage provision should help to avoid future need for additional outbuildings which can be more vulnerable to attack.

Care should be taken with regard to landscaping/planting so as to not restrict natural surveillance, create hiding places for those with criminal intent, impede CCTV (if applicable).

Please be mindful that if there is to be CCTV it must be accompanied by compatible lighting as come the hours of darkness the CCTV system will not be fit for purpose.

The parking area will need to have good natural surveillance from both the road and buildings beyond and ideally be lit to assist residents and deter vehicle

crime.

Preventative measures should be put in place to prevent anti social driving/behaviour in the open space of the car park when premises are closed. Consideration should be given for a gate/barrier to be fitted to the car park entrance for use when the premises are closed or the open space is broken down by introducing obstacles, for example one or two speed bumps, planters, low level hedging or kerbing as this will effectively reduce the amount of open space vehicles need to gain speed and drive anti socially.

Vehicle access onto grassed areas should be prevented by use of bollards are some form of solid structure

External illumination of the facilities may draw local attention at night. The lighting will need to be coordinated with actual occupation and use to avoid unwanted attention at times when there are no users or 'capable guardians' present.

Bollards to the front of the Pavilion must be capable of stopping a vehicle making contact with the building.

Secure motorcycle and bicycle parking should be provided and located within view of active areas e.g. reception. This area should be roofed and lit.

Care should be taken to not inadvertently design in climbing aids, such as trees, bollards, sills, bins, benches etc as these can provide access on to the roof to vents/roof lights or over into the grounds.

To control access and deter unwanted trespassers there should be only one main access and egress into the building and through to the MUGAS.

All doors, windows and locks should meet the standards of specifications of Secured by Design.

Storage and security of valuables and personal belongings will require special consideration. Lockers must be open to view and not hidden away to deter anyone wishing to tamper with the lockers

Cubicles and changing rooms should be designed to prevent voyeurism or the use of a mirror or similar to look over or under cubicle walls.

It is recommended that spectators are provided their own WC facilities to prevent providing a legitimate excuse for those with criminal intent easy and open access into the changing rooms where personal belongings and clothes can be left.

It may be worth considering an additional corridor door that can be used to prevent open access to the team and official changing rooms on match days.

Green Infrastructure Co-ordinator:

There are serious concerns in relation to the proposed floodlighting and impacts on bats, including Greater Horseshoe Bats which are known to be very light sensitive. Further information on levels of predicted illuminance and light spill, shown by appropriate isolines, is required prior to determination to ensure that bat flight corridors can be maintained through/around the development site in accordance with the Habitats Regulations Assessment undertaken for the outline application.

It should be noted that the Lighting Assessment submitted as part of the outline application (attached) stated that no floodlighting would be provided: "The lighting requirements for the Public Park and open spaces should be minimal as they will be used primarily during daylight hours. Although some of these spaces will contain play areas (and within the central elevated area, a sports pitch and youth play area is proposed, it is unlikely that they will be used during the hours of darkness so lighting will not be required. Floodlighting for the playing pitch on elevated ground would result in a significant negative visual and has been discounted on this ground."

The Ecology Addendum to the Environmental Statement submitted as part of the outline application also makes reference to sensitive use of lighting in paragraphs 6.6-6.12. The landscape and visual impacts of floodlighting need to be considered, particularly with regard to impacts on the nearby Area of Outstanding Natural Beauty. The Council's Arboricultural Officer and Urban Design Officer (Landscape) should be consulted with regard to the suitability of the landscape proposals. There is no plan showing the context of the proposals in relation to the wider development proposals and the relationship with the adjacent development including allotments, orchards and housing needs to be shown on a plan. Notwithstanding the further detail requested above, the following would need to be secured by planning condition or provided prior to determination of the reserved matters application:

Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement. The CEMP could be part of a wider CEMP covering the whole development site. The CEMP should be produced in accordance with clause 10.2 of BS 42020:2013 and should include full details of all ecological mitigation proposed during construction.

An informative would be required noting that the development must be carried out in strict accordance with both the on and off site LEMPs. It should be noted that Torbay Council is currently in discussion with Linden Homes regarding progress with the LEMP works. Further conditions may be required following the review of the additional information requested above.

*Summary:* The application is not suitable for approval until further details regarding lighting have been provided and acceptability discussed and agreed

with the Council's Ecological Adviser and Natural England. Relevant Council officers should be consulted with regard to landscape proposals and landscape and visual impact. A plan showing the context of the development in relation to wider development proposals is required. Notwithstanding the further details required, preliminary recommendations are made for conditions and informatives.

Natural England:

Greater horseshoe bats are among the rarest and most threatened bats in Europe. During the last 100 years, numbers have declined significantly throughout northern Europe. South Devon represents an international stronghold for the species supporting the largest recorded roost in northern Europe. The proposed development site falls within a greater horseshoe bat sustenance zone<sup>2</sup> associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone<sup>2</sup> and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony.

The proposals to include floodlighting are a departure from the approved outline application. Our previous supporting advice, and the conclusions of the Habitats Regulations Assessment carried out by the authority, were based upon the details provided with the outline application. The outline application included greater horseshoe bat mitigation measures surrounding the proposed sports pitch/play areas, included the retention and enhancement of hedges, and planting of new hedgerows. The Environmental Statement (February 2011, Final Issue) states that "No floodlighting of sports pitches will be used; play areas will not be lit..." The latest proposals include the provision of floodlighting. Where there is a material change to the approved outline application, it will be necessary for your authority to carry out a Habitats Regulations Assessment in advance of reaching a decision regarding this application.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:



An updated lighting strategy to ensure that light spillage parameters are set in advance of reaching a decision. Typically, detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows) is thought to be associated with Lux levels of 0.5 and above.

The assessment of light impact is best informed by identifying all potential sources of light (in this instance floodlights) and combining this information as part of a Lux analysis. All potential sources of light will require appropriate mitigation to prevent impact upon the greater horseshoe bat.

Assessment of potential light impacts at both construction and operational phases is often best informed by a suitably qualified lighting designer and ecologist.

To assess light impacts upon greater horseshoe bat habitat from the proposed development, it will assist to provide contour mapping (0.1lux intervals or less) that represents the lux modelling results (including vertical plane, and sample intervals of 200mm) on an OS map backdrop, and that can be used in conjunction with greater horseshoe bat habitat maps.

From the information available Natural England is unable to advise on the potential significance of impacts on South Devon Area of Outstanding Natural Beauty (AONB). It is therefore advise that advice is sought from the AONB Partnership / AONB Conservation Board. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able advise on whether the development accords with the aims and policies set out in the AONB management plan. The addition of floodlighting in a prominent location has the potential to adversely affect the AONB, and was a reason for their exclusion at outline application stage.

Ecological Consultant:

The application cannot be determined until a full lighting assessment for the proposed flood lighting of the sports pitches is received. A HRA Screening Assessment cannot be conducted until such an assessment is provided.

The HRAs prepared for the outline application (dated February 2012 and September 2012) contain copies of application drawings showing proposed new hedgerow planting (Ecosulis Nov 2011) and the offsite landscape buffer planting (Stride Treglown). Together, these drawings show new planting intended immediately adjacent to the proposed sport pitches.

It is understood that the proposed offsite landscape planting only commenced during the winter 2015/2016. This appears to be significantly late, since it should have occurred in the first planting season after the commencement of Phase I development.

It is not clear whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) there is concern about the applicant's commitment to necessary mitigation. Since the provision of flood lighting is a departure from the outline application, it appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

It is also understood that there is a commitment to provide a new bespoke bat roost in Peter's Copse. Outline proposals were submitted as part of the original application based on designs for lesser horseshoe bats (see attached Ecosulis Figure 7 White Rock Ecological Enhancements). In light of the delay with provision of landscape mitigation it is considered an appropriate time to seek the submission of detailed proposals (both in terms of design and location) for this roost.

In light of failures to implement works in accordance with approved timescales etc, an 'update report' on ecological mitigation works carried out to date and those still remaining to be implemented should be requested. Following this, it is recommended that a site visit take place to inspect both finished works and the locations for remaining further works.

In response to these comments the applicants stated that to reduce any light spillage from the flood lighting they would implement the use of baffles. The Ecological Consultant then provided the following additional comments:

"I have sought advice from one of my lighting engineer contacts that has considerable experience of schemes where lighting may have an adverse effect on greater horseshoe bats.

While it is true that many baffles and shields cannot be easily modelled in lighting software, this is often more common for sports lighting and often manufacturers are able to provide this info. e.g. Abacus Lighting can provide modelling data (photometrics) for their backshields on sports lights. Also, depending on the style of the shield it is sometimes possible to crudely model it as an object within the lighting software to give an indication of its effect.

It will certainly not be acceptable to rely on the approach outlined in [the agent's] email to you dated 13th June. If lighting is to be first installed before the baffles are then retrofitted, this would mean we would have no prior knowledge of the likely outcome until light levels were measured post installation. This is not acceptable.

If no information is available from the manufacturers and the lighting consultant

feel unable to model the effects (questionable) then the lighting will need to be modelled without the baffles fitted, so we have an idea of worst case scenario. We will then know the reduction in light spill in metres needed for the scheme to be acceptable. We would then need evidence to indicate the extent to which the baffles are likely to reduce light spill. For instance, as a guide an Abacus light shield on a sports light mounted at 15m high, results in a 10-15% reduction in the light spill. At the moment, we have no idea whether light spill with the baffles will be less or more than this. Baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch.

Furthermore, baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch. So we also need this information.

I would also ask again for a response from the applicant to the concerns raised in my email dated 28th April, which stated:

I do not know whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. We need this information.

In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) I am concerned about the applicant's commitment to necessary mitigation. Also, since the provision of flood lighting is a departure from the outline application, it appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

In view of the applicants failure to implement necessary greater horseshoe mitigation to agreed timetables, I have no faith in non binding statements from Mr Chick stating that his lighting consultant "once the baffles are in place on the floodlights he is confident this would as good as remove the necessary amount of light illuminance to mitigate impacts on the surrounding bat runs".

Drainage:

No drainage details have been submitted to allow a comment to be made.

Sport England:

Sport England seeks to ensure the new sports facilities are fit for purpose. Given the nature of the proposal, Sport England has sought the views of the FA, who advise:

- a. Four player changing rooms are indicated and it is assumed two will be for the 3G FTP and should have a clear changing area excluding showers and wc's of 18m<sup>2</sup> and not 16m<sup>2</sup> as drawn. The layouts of the two rooms to the left with direct access to the pitch are fine apart from the area. 16m<sup>2</sup> is fine for community use but 18m<sup>2</sup> would be required for the league use.
- b. Two officials changing rooms are provided and are fine. There may need to be a corridor door provided, which can be locked on match times separating the player official changing area from the other changing and public access. The internal arrangement of the gymnasium changing room may need adjusting to move the access door to the other side of a corridor door position.
- c. Spectator wc's are not provided separate from the player changing area. Unless the spectators can use the wc's of one of the other changing rooms they would need to be provided.

The primary purpose of this development is to deliver community sport and as such Sport England would wish to see this intention consolidated by way of a Community Use Agreement.

Subject to the satisfactory establishment of a Community Use Agreement through a condition of approval, Sport England is satisfied that the changing facility will deliver benefits to community sport.

This being the case, Sport England offers its support for this provision of the Sports Pavilion, as it is considered to meet the Objective regarding new provision.

In respect of the proposed artificial grass pitch (AGP) Sport England's comments are as follows:

It is Sport England's understanding that the proposed playing pitch (artificial grass pitch 3G) is proposed as part of the housing s106. It is to be provided to meet the policy needs of providing open space, sport and recreation in new housing developments. This proposal appears to have a new angle with the College now seeking to develop this playing pitch proposal for the College students with community access. The natural turf playing pitch/open space area in the s106 is to be superseded by the provision of an artificial grass pitch (3G) with sports lighting and fencing.

The current proposal for a significant intensive use sports facility may affect the Council's (to be adopted shortly) Playing Pitch Strategy which identifies a strategic need for an artificial grass pitch (3G) at Clennon Valley depending upon design, access and management. This proposed 'pitch' design appears to be 'work in progress'. It is shown as to be large enough for competitive rugby but no firm commitment to deliver that specification needed - World Cup 22. It is misleading within the paperwork to say that this pitch can be used for cricket. In

the main, it will be an artificial grass pitch to deliver football - training and competition play providing it is designed and maintained to meet FIFA/FA requirements. If no rugby use is planned to meet World Cup 22 standards, the pitch size may be reduced to a football size. See planning condition below. Given the original requirement of a playing pitch to meet needs of the new residents, we would strongly encourage the development and to be secured by planning condition, a community use agreement that develops sport for the end user including the College and community. This community use condition should be extended to include the proposed AGP and MUGAs.

Sport England has contacted both The FA and RFU for their comments.

The FA advise that the pitch size at present is big enough to accommodate a Rugby size compliant 3G. All relevant information is being sent to RLF from the College, RLF will then assess the reports and surveys carried out to date and make recommendations on what further surveys and drawings are required. The College are in the position to progress with a rugby size and IRB 22/world rugby compliant pitch that can also meet the requirements for Step 6 football. But it is likely that they will seek to submit an addendum to the LPA and work up a detailed design for a step 6 football compliant 3G stadia pitch.

The FA has suggested two sets of conditions.

In principle the FA support the application, there is the knowledge that further information is to be submitted to ensure the pitch is compliant for Step 6 football.

The RFU advise that they are supportive of this proposal at White Rock and are exploring the strategic benefits this development could bring to Rugby Union in the Torbay area. Currently there are no artificial surfaces in the locality that are designed and built to achieve World Rugby Regulation 22, which provides an opportunity for the operator. The RFU is aware that this site has strong strategic importance for the Football Association and this could provide a challenge for the RFU to invest into the site due to the high football demand. There are three community rugby clubs within the area that could potentially access and use the facility if capacity levels allowed, all having strong junior sections. These sites within the Torbay PPS are classified as being over capacity, and two are shared sites with cricket. If appropriate community usage can be agreed and profiled, the RFU will continue to explore the feasibility of supporting this site.

The MUGA's design should reflect the end usage/operation and management. For example, if predominantly for tennis, it should be designed with LTA guidance. If more a general space for numerous activities the design will move away from those needed for specific sports. It is noted that both will have sports lighting with one having a tarmac surface, the other a polymeric. This may help with providing opportunities for netball and football training.

In summary, Sport England generally supports the application as new sports facilities are proposed which should have positive sports benefits for the College and wider community (to be secured by planning condition). But raise comments around the pavilion design, the strategic need for a 3G AGP in this location and the proposed design specification of the AGP 3G.

### **Summary Of Representations**

3 representations have been received. Issues raised:

- o One representation of support
- o Detrimental impact on Greater Horseshoe Bat habitat
- o Detrimental impact on the AONB
- o Concern that it is appropriate to make a decision on an application that does not reflect the outline permission in terms of the inclusion of a lighting scheme

### **Relevant Planning History**

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m<sup>2</sup> gross employment floorspace, a local centre including food retail (up to 1652m<sup>2</sup> gross) with additional 392m<sup>2</sup> A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development APPROVED

P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 APPROVED

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 PENDING CONSIDERATION subject to the outcome of this application

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development - THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 DO NOT MAKE PROVISION FOR PUBLIC COMMENT ON REQUESTS FOR SCREENING/SCOPING OPINIONS EIA NOT REQUIRED

P/2015/1126 Approval of appearance, landscaping, layout and scale in relation to 216 dwellings and associated development REFUSED 13.04.2016

P/2016/0094 Erection of 42 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) PENDING CONSIDERATION

(Variation of condition P1 of P/2014/0071)

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

The key issues to consider are the principle of development, appearance, impact on the AONB, landscaping, biodiversity, drainage parking and residential amenity.

#### Principle:

Outline consent has been granted for the mixed use development of the site. This application was approved subject to extensive consultation and was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. The principle of development in this location was established by this application and the position and scale of the proposal is in accordance with the indicative layout agreed at outline stage.

Policy SC2 of the Torbay Local Plan supports the provision of sports facilities to serve additional demand generated by the wider development. Sport England support the development subject to the inclusion of conditions as noted in their response.

#### Appearance, Scale and Layout:

Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions". Consistent with these paragraphs, policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials, whether they protect local and longer distance views and the impact on the skyline especially from public vantage points, having regard to the location and prominence of the site and whether they positively enhance the built environment.

Within the Design and Access Statement submitted at outline stage it stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to

elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.' In addition the outline application was supported by an LVIA, which noted that as a result of the assessment of the predicted landscape and visual effects significant adverse effects were identified. In response to this assessment, mitigation measures were identified. One of the mitigation measures identified stated that 'the pavilion building would be designed to look like an agricultural building with timber cladding'.

The design of the sports pavilion has been revised during the course of the application. The amended design omitted a parapet wall design in lieu of a fascia and soffit, changed the wall material from timber cladding and render to facing brick and metal cladding, changed the window materials from powder coated aluminium to white upvc and raised the roof pitch from flat to 5 degrees. The previous design adopted high quality materials and whilst there was an element of render this was positioned fronting on to the car park rather than the wider countryside. The amended design does not reflect the principles of the Design and Access Statement submitted at outline stage nor is it considered to represent high quality design as required by paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan. In addition no evidence has been submitted to justify a change in materials away from that noted at outline stage. The change in materials away from those detailed at outline stage particularly in terms of the wall materials has the potential to impact upon the character and appearance of the wider countryside and views from the nearby AONB.

In line with the above, the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment and therefore is considered contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030. Revised plans are however expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

#### Landscaping and Impact on the AONB and Surrounding Countryside:

Paragraph 115 of the National Planning Policy Framework states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. Whilst the site lies outside of the South Devon Area of Outstanding Natural Beauty (AONB) it is located such that it is visible from the AONB. The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It also noted that mitigation of any proposed development changes should be achieved through a combination of careful siting with strong screen



planting and the reinforcement of existing field hedgerow boundaries. This type of mitigation was proposed at outline stage with a Landscape and Ecological Management Plan being secured to provide offsite landscaped buffers however it is noted that this does not appear to have been provided in line with agreed phasing plans nor is some of this landscaping shown on the submitted plans.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The Environmental Statement and associated Lighting Assessment submitted at outline stage stated that floodlighting for the playing pitch on elevated ground would result in a significant negative visual impact and has been discounted on this ground. The South Devon AONB Office have been consulted on the application but have not provided a response. However the information submitted at outline stage confirmed that the use of lighting would have a negative visual impact which justified its exclusion at outline stage. No further information has been submitted with the application to demonstrate that the proposed floodlighting would not result in adverse light spill and sky glow that can be seen from surrounding areas to the detriment of the landscape character of the area particularly the appearance and character of the AONB.

The proposed landscaping within the site is considered insufficient and would not effectively screen the proposal from wider views. In line with the comments from the Council's Arboricultural Officer, the proposed landscaping would not reliably exceed the height of the proposed building and would be incapable of attaining a sufficient scale to be the dominant landscape feature of the site. As noted above 'strong screen planting' is required to help mitigate the impact of any development in this location, and whilst strategic planting around the application site will help somewhat, additional landscaping within the site would be required to help assimilate the development with its surroundings, particularly in views from the AONB. This was supported by the Design and Access Statement submitted at outline stage which stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.'

In line with the above insufficient information has been submitted to demonstrate that there will be no adverse effect on the AONB and surrounding landscapes and therefore the proposal is considered to be contrary to paragraph 115 of the National Planning Policy Framework and policy SS8 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

Biodiversity:

Paragraph 118 of the National Planning Policy Framework states that in terms of

biodiversity, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. It is also clear within the National Planning Policy Framework that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined which is the case with this application. Similar objectives are detailed within policy SS8, Natural Environment and NC1, Nature Conservation.

The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. Contrary to the information submitted at outline stage, flood lighting is proposed to serve the sports pitches. Whilst there was no condition on the outline consent preventing the inclusion of external lighting, the application was determined on the basis of the information submitted which noted that no floodlighting would be provided to the sports pitches due to harmful visual impacts and impacts upon protected species. Natural England note that the permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony and no information has been submitted with the application to demonstrate that the proposed floodlighting would not have a detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows).

In line with consultee advice, insufficient information has been submitted in relation to light spillage (a lux analysis, mitigation measures, contour mapping etc). Natural England has confirmed that a Habitat Regulations Assessment will be required in advance of any decision being made by the Council. Based on the level of information submitted, it is considered likely that the results of this assessment will detail that the development is likely to result in a significant adverse effect and therefore should be refused. Paragraph 62 of the Habitats Regulations sets out the steps required should the appropriate assessment conclude the proposed development will adversely affect the integrity of the European site. This sets out that there must be consideration of alternatives to the proposal and if there are no alternatives, permission can only be granted if there are exceptional circumstances and the development is in the public interest. This is similarly set out within paragraph 118 of the NPPF. No details of alternative sites have been put forward within the application submission and whilst undoubtedly there will be some social benefits resulting from the use of the site by the community and the nearby College, proposed visitor numbers have not been submitted to support such a justification.

In line with the above insufficient information has been submitted to date to demonstrate that there will be no likely significant effect on the Berry Head South Hams Special Area of Conservation and therefore the proposal is considered to

be contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, a Construction and Ecological Management Plan would be required by a condition of approval. At the time of writing this report the HRA screening has not been carried out, further information is awaited from the agent to inform the screening of the development. The application cannot be determined positively until a HRA screening and where necessary and appropriate assessment is carried out.

#### Residential Amenity:

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown at outline stage. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution. The proposed building is single storey and positioned approximately 22m from the dwellings to the east such that the proposals are not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing. Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The proposed floodlighting has the potential to detrimentally impact neighbouring residential amenity however no details have been provided regarding proposed light levels to determine this with any certainty. There is also the potential for the proposal to have a noise impact and as such were the proposal to be considered acceptable a condition restricting the hours of use would be imposed.

In line with the above insufficient information has been submitted to demonstrate that there will be no detrimental impact in terms of neighbouring residential amenity and therefore the proposal is considered to be contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above; the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, it is likely that limitations on the number of evenings a week that the outdoor pitches could be used and the hours of use would be required by condition.

### Drainage:

Surface water drainage methods were agreed at outline application stage. However the Council's Drainage Engineer has requested confirmation that the proposals reflect the agreed drainage design and this information is expected shortly. The Members will be updated on this at the Committee Meeting.

### Parking:

The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would require a greater number of spaces if the external space were to be taken into account. The Local Plan sets no parking standard for pitch area, but it is considered reasonable within the context of policy TA3 of the Torbay Local Plan to ensure that there are not severe problems with parking over spilling into residential areas during high demand times. However on balance it is also accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. In light of this were the application considered suitable for approval, a condition requiring the submission of travel plan would be imposed in order to maximise the use of sustainable transport and detail measures for over spill car parking.

The plans submitted include annotations to show provision for electrical charging points, cycle provision and disabled parking. The submitted plans, however, do not show parking spaces of a sufficient scale to accommodate a disabled parking space. Revised plans would be required to show that such spaces could be provided in line with policy TA3 and associated appendix F. Were the application to be approved, a condition requiring details of the 6 secure cycle spaces would be required.

### **Conclusions**

It is considered that insufficient information has been submitted to demonstrate that the development can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

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

01. Insufficient information has been submitted to demonstrate that there will be no likely significant effect on the South Hams Special Area of Conservation and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.

02. Insufficient information has been submitted to demonstrate that there will be no detrimental impact on the South Devon Area of Outstanding Natural Beauty or wider countryside and contrary paragraph 109 and 115 of the National Planning Policy Framework and policies SS8 and C4 of the Torbay Local Plan 2012-2030.
03. By reason of its form and materials, the proposal is not considered to represent good quality design nor would it enhance the built environment contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030.
04. Insufficient information has been submitted to demonstrate that there will be no detrimental impact on neighbouring residential amenity by reason of light nuisance contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030.

**Relevant Policies**

- SS8 - Natural Environment
- SC2 - Sport, leisure and recreation
- NC1LFS - Biodiversity and Geodiversity
- C4 - Trees, hedgerows and natural landscape
- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management
- SS11 - Sustainable Communities Strategy
- TA3 - Parking requirements
- TA1 - Transport and accessibility

# Agenda Item 7

**Application Number**

P/2016/0555

**Site Address**

Silverlawns Nursing Home  
31 Totnes Road  
Paignton  
TQ4 5LA

**Case Officer**

Carly Perkins

**Ward**

Roundham With Hyde

**Description**

Variation of conditions application re 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.) - Vary condition P1 to include one additional residential unit within the proposed new building to the south eastern corner of site

**Executive Summary/Key Outcomes**

The site 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 original building occupied by a nursing home was identified as a key building within the Old Paignton Conservation Area but had since fallen into a derelict state following a fire. In 2015 an application for the partial demolition and repair of the original building to include extensions and the conversion of the building to form 11 residential units, 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 was approved. This approval included vehicular access via Totnes Road, Midvale Road and a private lane off Midvale Road, landscaping and parking.

This application is for the variation of condition P1 to allow the inclusion of one additional residential unit within the approved new building to the south eastern corner of site, with one additional on site parking space. The unit would be provided within the lower ground floor of the approved building, and there would be no increase in size of this building. The addition of one unit would result in 19 residential units on the site each with 1 parking space, bin storage and cycle storage. The additional unit is provided at lower ground floor level and has a floor area of approximately 54sqm with an open plan lounge/kitchen, one double bedroom, bathroom and cupboard space. The proposal provides an acceptable level of residential amenity in terms of light and outlook for future occupants and subject to revisions to the position of the door serving the neighbouring flat is

considered acceptable in terms of privacy. The additional parking space is considered acceptable subject to the inclusion of a condition requiring a sleeping policeman with dragon's teeth within the application site adjacent to the access on to the private lane.

In line with the above the variation of condition P1 to allow the addition of one additional residential unit and 1 additional parking space is considered acceptable and compliant with both local and national policy.

The proposal would provide one additional unit (resulting in a total of 19 on site) to a good standard of residential accommodation without greater impact on neighbouring residential amenity, highway safety, the character and appearance of the conservation area, drainage, trees or biodiversity.

### **Recommendation**

Conditional approval subject to the submission of revised floor plans and elevations (to show a revised door position serving the neighbouring flat. Conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Head of Spatial Planning.

### **Statutory Determination Period**

8 weeks, the determination date is the 18th August 2016.

### **Site Details**

The site 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 original building occupied by a nursing home was identified as a key building within the Old Paignton Conservation Area but had since fallen into a derelict state following a fire. In 2015 an application for 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 was approved. This approval included vehicular access via Totnes Road, Midvale Road and a private lane off Midvale Road, landscaping and parking.

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**

This application is for the variation of condition P1 to allow the inclusion of one additional residential unit within the proposed new building to the south eastern

corner of site. The addition of one unit would result in 19 residential units on the site each with 1 parking space, bin storage and cycle storage. The additional unit is provided at lower ground floor level and has a floor area of approximately 54sqm with an open plan lounge/kitchen, one double bedroom, bathroom and cupboard space.

### **Summary Of Consultation Responses**

#### **Green Infrastructure Co-ordinator:**

No objections.

#### **Arboricultural Officer:**

The proposed additional residential unit does not alter the footprint of the building and therefore has no material impact on the proposed landscaping previously met with approval from arboriculture.

#### **Senior Strategy and Project Officer:**

No objection to the principle of increasing the number of residential properties on site given its sustainable location. The use of the narrow unadopted lane was a major highways issue and the use of a traffic hump was considered but not pursued. The current proposal increases the number of parking spaces using this lane from 5 to 6 (i.e. approximately 6-7 additional traffic movements per day). On this basis it would be reasonable to mitigate the impact of additional traffic on the unadopted lane. A sleeping policeman on the entrance to the site to slow down vehicles entering the narrow lane (i.e. on the applicant's land) to mitigate the impact of additional traffic using the land should be provided. This should also have dragon's teeth marked with reflective paint. This can be achieved by condition.

### **Summary Of Representations**

None received.

### **Relevant Planning History**

P/2015/0908 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 APPROVED 21.12.2015

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 residential accommodation in this location, 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. Residential accommodation in this location with a good standard of amenity is considered acceptable and in accordance with the policies of the Torbay Local Plan 2012-2030. In line with policy H1 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 physical works proposed by this application are limited to external alterations to the new building (approved under P/2015/0908) towards the south eastern corner of the site. These include an element of excavation to amend the position of the external walkway and stairs and the addition of windows and a door to the north west elevation. Materials have not been specified but this can be controlled by condition to ensure the materials match those already approved by conditions of P/2015/0908 which refer to building details and materials. The changes to the external appearance of the building are considered acceptable and in line with the contemporary design of this building. As part of application reference P/2015/0908, the overall building in terms of its impact on the conservation area was considered, whilst it was recognised that a level of harm would be caused through the inclusion of this building, this was considered to be less than substantial and offset by public benefit by means of the wider regeneration of the site. The inclusion of the additional residential unit is not considered to result in any greater impact to the character or appearance of the conservation area, the scale of the building remains unchanged with the additional unit being contained within the approved footprint and the design reflects that approved.

Impact on highway safety and parking provision:

The proposal continues to provide for 1:1 car parking with 13 spaces to the front of the building and 6 to the rear, this ratio of parking provision was considered acceptable in the previous application due to the sustainable location of the site. The Council's Strategy and Project Officer and Highways Engineer have not raised any objections to the scheme subject to the inclusion of a sleeping policeman (to be secured by condition) to the entrance of the site adjacent to the private lane. This is required to mitigate the impact of the additional car movements by slowing down vehicles entering this lane. Subject to the inclusion of this condition the proposal is considered acceptable in terms of highway safety.

Impact on residential amenity:

The proposal is provided within the footprint of the approved building, whilst additional excavation is required to reveal the elevation of the additional unit this does not increase of the footprint of the building. Openings are provided to front on to the application site and no direct views are provided towards neighbouring dwellings beyond the application site. In light of this the proposal is not considered to result in any greater impact to neighbouring residential amenity by reason of loss of light, privacy or by reason of being unduly dominant or overbearing and is considered acceptable and compliant with policy DE3 of the Torbay Local Plan 2012-2030.

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. The unit size is consistent with the suggested standards and the amount of communal garden space continues to reflect the guidelines noted. The unit depth is 9m and whilst this is not ideal with daylight only provided by one elevation, the arrangement of this room is such that the main habitable spaces (lounge, dining area and bedroom) are positioned closest to these windows which are positioned as high as possible in this elevation. In light of this the level of light entering this room is considered adequate. Outlook from the unit is adequate with views on to the gardens serving the site. The position of the neighbouring door to the flat is in close proximity to the windows serving the additional unit which has the potential to impact upon residential amenity in terms of loss of privacy. In light of this it is considered necessary to request a revised arrangement to the front elevation of the neighbouring flat whereby the door is repositioned to this elevation. Revised plans to demonstrate this have been requested and subject to this change the proposal is considered acceptable in terms of residential amenity and is 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 proposal does not impact upon the building footprint and in line with the comments from the Council's Arboricultural Officer is acceptable in terms of arboricultural merit. Conditions relating to trees imposed on P/2015/0908 will be reflected in this decision.

Impact on biodiversity:

The proposal does not impact upon the building footprint and in line with the comments from the Council's Green Infrastructure Officer would not result in any greater impact in terms of biodiversity. Conditions relating to biodiversity imposed on P/2015/0908 will be reflected in this decision.

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. Conditions relating to drainage imposed on P/2015/0908 will be reflected in this decision.

**S106/CIL -**

Due to the high construction costs incurred at this site due to the dilapidated nature of the site and the need to retain the principal facade of the existing key building on conservation grounds, the applicants submitted information with the original application to demonstrate that the application would be unviable if affordable housing and section 106 contributions were incurred. As a result an independent viability assessment was carried out for the approved development

under P/2015/0908; this noted that the development would not be viable if it were to incur section 106 contributions or affordable housing requirements. The addition of this one residential unit is not considered to significantly alter the outcome of this viability assessment as the construction costs identified continue to be incurred and therefore no contributions have been sought.

### **Conclusions**

The proposal would provide one additional unit (resulting in a total of 19 on site) to a good standard of residential accommodation without greater impact on neighbouring residential amenity, highway safety, the character and appearance of the conservation area, drainage, trees or biodiversity. In line with this, the variation of condition P1 to allow the addition of one additional residential unit and one additional parking space is considered acceptable and compliant with both local and national policy.

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

01. Materials
02. Phasing
03. Landscaping
04. Tree Protection
05. Bin and Cycle Storage
06. Provision and Retention of Parking
07. Mitigation in relation to Bats and Nesting Birds
08. Removal of PD Rights
09. Surface Water Drainage
10. Obscure Glazed Rooflights to West Elevation of Stable Building
11. No Use of Flat Roof above Cycle Store for Amenity
12. Section 278 Agreement for Vehicular Access to Midvale Road
13. Construction Method Statement
14. Retention of Front Door
15. New Building Window and Doors

16. Rainwater Goods
17. Entrance Piers
18. Inclusion of Sleeping Policeman within Application Site Adjacent to Access on to Private Lane.

**Relevant Policies**

DE1 - Design  
DE3 - Development Amenity  
SS10 - Conservation and Historic Environment  
H1 - New housing on identified sites  
H6LFS - Housing for people in need of care  
NC1LFS - Biodiversity and Geodiversity  
ER1 - Flood Risk  
ER2 - Water Management  
C4 - Trees, hedgerows and natural landscape  
W1LFS - Waste hierarchy  
W2LFS - Waste audit  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
SS8 - Natural Environment

# Agenda Item 8

**Application Number**

P/2016/0610

**Site Address**

Land At Brixham Road  
Yannons Farm (Area D)  
Paignton

**Case Officer**

Mr Scott Jones

**Ward**

Blatchcombe

**Description**

Submission of Reserved Matters relating to layout, scale, appearance and landscaping in relation to P/2015/0124 (Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for access)

**Executive Summary/Key Outcomes**

The application is for reserved matters relating to the layout, scale, appearance and landscaping for 70 dwellings approved in outline under planning reference P/2015/0124 (determined by the Development Management Committee in December 2015), which relates to land referred to as Yannons Farm Area D that is set on the western outskirts of Paignton to the west of the Brixham Road near to the emerging Yannons Local Centre (including an Aldi store) and the PMU.

The reserved matters detail is considered to be broadly in accordance with the indicative plans that supported the outline application. There are however areas of divergence from the outline information, principally in terms of a reduction in the number of apartments within the housing mix, a different treatment of the entrance area to the development in the south-eastern corner of the site, and subtle arrangement amendments and landscaping detail. It should be noted that the details submitted at outline stage were illustrative only and did not form part of the grant of outline planning permission.

Officers consider the proposals to be acceptable, subject to some minor modifications and improvements in order to achieve a satisfactory form of development, in line with relevant Policies in the Torbay Local Plan. These modifications relate to width/alignment of the estate road, garden sizes, parking provision and public realm improvements.

The scale of buildings are deemed acceptable with a mix of two and three storey buildings of domestic scale throughout the development. The layout remains principally aligned with the indicative outline scheme and is largely considered acceptable, presenting a coherent network of streets framed by buildings. The appearance of the dwellings is considered acceptable as they reflect the earlier phases of the Yannons development and will reinforce the emerging character of the area. The landscaping proposals are broadly acceptable however they do

not quite achieve the softening of the development that is expected and enhancements are required if it is to achieve the vision of the outline proposal.

There are a number of aspects of the proposal which require further consideration, the chief elements of which are summarised below.

The current building form and arrangement at the south-eastern corner requires improvement. The outline proposal presented an ethos of a green link and informal public open space for this area, which has been severely weakened at this detailed stage. As matters stand the south east corner requires further thought in order to deliver a better framed strategic corner and entry point into the development that presents a "place" and also supports the concept of linked green spaces.

The estate road that sweeps across the southern end of the site and turns the corner northwards, which will serve the development and adjoins other residential land to the north (Planning Ref: P/2014/0983, mixed use development granted outline permission by Development Management Committee in December 2015), is not presently designed to adequately facilitate a strategic bus route linking Brixham Road with Yalberton Road, via land rear of Sainsbury's. The width of this road needs to be increased to allow for use by a bus. The applicant has indicated that they are willing to amend the submitted plans.

Minor revisions to improve the arrangement of parking spaces should be achieved to limit, as far as practicable, the scale of parking courts and the provision of remote parking set away from the relevant dwellings. The level of parking is itself considered acceptable with at least two spaces per dwelling (and one per apartment) provided, along with a number of visitor spaces.

There are a number of gardens that fail reach the expected guideline for dwelling amenity space as outlined within the Local Plan, which is 55 square metres of usable amenity space. Consideration to improve the residential environment where practicable is necessary.

There are also minor elements that require further negotiation with the applicant, largely in terms of the quality of some of the more prominent plot boundary treatments, in order to achieve the quality of public realm that aligns with the outline information.

The present level of soft landscaping and tree planting is considered inadequate as it would not soften the built form to the level expected within the edge of settlement context or align itself with the indicative proposal presented at outline stage. There is however considered scope to achieve adequate landscaping within the presented layout and further consideration of this has been requested.

Subject to the matters above being adequately addressed the Reserved Matters

proposals are considered to be acceptable for planning approval. These points have been discussed with the applicant who has agreed to review the submission. Revised plans are expected to be submitted prior to the committee meeting.

### **Recommendation**

The Reserved Matters are recommended for approval, subject to the receipt of satisfactory revised detail that responds to the issues summarised above, to include:

- (i) Receipt of revised plans that provide an adequate corner/arrival design solution in the south east corner of the site,
- (ii) Receipt of revised plans that include a highway design that can adequately accommodate a future bus route, in consultation with the Local Highway Authority,
- (iii) Receipt of revised plans that improve the current provision of parking, garden amenity space, bin storage, boundary treatment and landscape provision.

Members will be updated on advancement of these issues however if these issues remain unresolved at the point of the Committee it is recommended that the satisfactory resolution of these matters is delegated to the Head of Planning

It is recommended that the drafting of any necessary conditions required (in support of those imposed at outline stage) is delegated to the Head of Planning.

### **Statutory Determination Period**

This is a 13 week application for which the decision due date is 27th August 2016. A committee resolution to approve subject to detail being finalised by officers (where necessary) will enable determination within the 13 week decision period.

### **Site Details**

The proposal site is part of a wider area of land known as Yannons Farm, situated to the west of the Brixham Road, near to the emerging Yannons Local Centre/Aldi Supermarket and the PMU.

The land is principally a hedge and tree lined rectangular field circa 1.8 hectares in size. The site slopes gently down from the south-east corner to the north-west corner.

To the south lies Yannons Area C which was granted detailed permission for 70 dwellings within the hybrid application that permitted the 70 dwellings in outline in Area D.

To the north and west lies open farm land that is a designated Future Growth



Area where Members recently considered and approved outline consent for up to 192 dwellings and between 7400 and 9200 square metres of employment development (B1 and B8 Uses) which amongst matters was subject to safeguarding links through to already emerging development to the south (Yannons).

As stated to the east sits the PMU and Yannons Farm Local Centre/ Aldi.

The site falls in the sustenance zone of the Berry Head SAC roost for the Greater Horseshoe Bat colony.

### **Detailed Proposals**

This is a reserved matters application that is seeking approved for the layout, scale, appearance and landscaping for the 70 dwellings approved in outline under the hybrid application referenced P/2015/0124 (70 approved in detail (Area C) and 70 approved in outline (Area D)).

The submitted plans show 70 dwellings, with car parking provided through garaging, driveways and some parking courts.

There is a mixture of 2, 3 and 4 bed properties provided through the mix of detached, semi-detached and short terraces.

There are 10 detached dwellings, 2 semi-attached dwellings, 18 semi-detached dwellings, 35 dwellings arranged in short terraces (each of 3-5 units), three apartments, and two FOGs (Flat Over Garage).

The development is to be accessed off the spine road and junction arrangement that is already approved in detail through previous phases and the detailed element of the associated hybrid application.

### **Summary Of Consultation Responses**

*Urban Design Advisor:*

Key points include:

- The south east corner of the site is now weak in terms of its urban design and alternative strategies should be sought to create the informal open space and urban form that was identified at outline stage.
- Revisions to the parking arrangement could be achieved to improve layout and access to the related dwellings.
- The north west corner of the site is an inefficient use of space and more thought should be given to the solution for this area.
- The alignment of buildings on the south west corner may be improved by presenting a stagger towards the deeper pair of semi-detached properties.
- The northern end of the green link may be better considered to achieve more purpose in term of connections, both present and future

- development in the area.
- The parking courts could be improved to provide a more integrated shared space between pedestrians and vehicles where there is an absence of footways.
  - Blank gable ends evident in the street could be improved to provide natural surveillance to public areas.
  - The flats over garages should be detailed to provide natural surveillance.
  - Garage sizes appear undersized when compared to policy standards.

*Strategic Transport/Highways:*

The main spine road through the development should be capable of accepting a bus service. The current 4.8m wide highway should be widened to at least 5.4m (ideally 6m) with a minimum of 1.7m footways to either side. If this is not achieved an access through the distributor road adjacent to the PMU should be explored.

It would be advantageous to reduce the use of parking courts, although other constraints may limit this.

Cycle storage should be required and garages, where they are supplied to meet the Local Plan guidance level on the number of spaces, should accord with the size guidelines within Appendix F of the Local Plan.

*Green Infrastructure Officer:*

The proposals appear in accordance with the outline submission and suitable conditions have been achieved under the parent hybrid approval for construction management, lighting, tree protection, scrub clearance, landscaping, landscape and ecological management and bat monitoring. The mechanism for curlew bunting mitigation should be finalised to ensure that timely mitigation is achieved

*Ecological Advisor:*

As the detailed proposal largely accords with the information presented at outline stage there is no need to undertake a further HRA (Habitat Regulations Assessment) in regard to any likely impact upon the Greater Horseshoe Bat.

*Arboricultural Officer:*

It is important that the existing trees and hedgerows are protected during construction.

The proposed trees within the landscaping proposals are considered inappropriate in terms of their visual massing, longevity and species selection in terms of their integration within the context.

An insufficient number of trees is provided to adequately soften the local built environment. However opportunities throughout the site do exist for enhanced planting with enhancement of the public tree offer, supplemented by additional

tree planting within private spaces.

*Natural England:*

Support the comments of the Council's Green infrastructure Officer.

It is noted that the detail and further information relating to conditions attached to the parent hybrid application is yet to be addressed.

Detail relating to Conditions 03 (CEMP), 04 (Lighting Design), 09 (Landscape), 10 (External lighting), 11 (LEMP) and 12 (Bat monitoring) should be achieved prior to determining the Reserved Matters (information is currently being considered for Phase C and these conditions have yet to be formally discharged).

Further in terms of detail the western boundary shows a maintenance strip but does not provide an explanation. Also the adjacent devon banks and dark corridor falls outside the red line boundary, which were included within the parent outline application and part of the HRA consideration.

*RSPB:*

Reiterate that previous comments were supplied on the hybrid application and that there are a number of conditions attached to safeguard ecological interest and s106 obligations relating to curlew bunting.

It would be beneficial if the mechanism for achieving curlew bunting mitigation was agreed prior to determining the reserved matters, and that Natural England and the Council's ecologist should be consulted to ensure all necessary conservation measures are safeguarded.

*Police Designing Out Crime Officer:*

The FOGs provide welcome surveillance over the adjacent parking court. Lighting is required to illuminate doors, the shared parking areas and footpaths leading to dwellings, which should project sufficient light. Low brick walls should be topped with railings where they abut the public realm, and rear gates should be lockable on both sides.

*Environment Agency:*

Wish to make no comment.

### **Summary of Representations**

None.

### **Relevant Planning History**

*P/2015/0124* - Hybrid application. Full planning application for 70 dwellings, related infrastructure, landscaping, play areas and a hill top park. Outline planning permission for up to 70 dwellings with all matters reserved except for

access - Approved 12.12.2015

*P/2010/0289* - Mixed use development to form approx. 220 dwellings, approx. 5,600 sq. m. gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline) as a departure from the Torbay Local Plan. Approved 04.10.2011.

*Relevant history on adjacent site (Parkbay Garden Centre/Holly Gruit):*

*P/2009/1287* - Residential development to form approx. 95 dwellings with associated vehicle/pedestrian access, roads; footpaths (In Outline). Approved by Members at the committee meeting of 19 April, 2010 subject to conditions and a s106 legal agreement.

*Relevant history on adjacent site (Jackson Land/Land off Yalberton Road):*

*P/2014/0983* - 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) (DEPARTURE FROM THE ADOPTED TORBAY LOCAL PLAN 1995-2011) - Resolved Approval December 2015, pending formal decision subject to S106 Legal Agreement.

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

The key issues to consider are:

1. The principle of development,
2. Design/appearance,
3. Highways/Movement,
4. Residential amenity,
5. Parking,
6. Landscaping,
7. Ecology.

#### **1. Principle of development:**

Outline consent has been granted for 70 dwellings on this site under the hybrid application approved by Members at the December 2015 Committee.

This application was approved having subject to a legal agreement and conditions which included construction management, ecological and landscape management, detailed design and provision of elements such as parking and cycle storage.

The principle of development was established by this outline application (*P/2015/0124*) and this Reserved Matters accords with the established principal of 70 dwellings on the land.

The land is also identified as a Committed Development Site within the Local Plan as part of the strategic allocation for locations to the north and west of Paignton to provide a range of housing, employment and local facilities.

In regard to adjacent context land to the north and west is a designated Future Growth Area and Members recently considered and approved outline consent for up to 192 dwellings and between 7400 and 9200 square metres of employment development (B1 and B8 Uses) on this land.

## 2. Design/appearance:

This application represents the fourth and final phase of related development and follows the Local Centre (Area A), the existing residential element to the south east (Area B that is built out and occupied, and Area C, which was approved in detail within the parent hybrid application approved in December 2015.

The building form and scale that is proposed principally follows the design 'blueprint' established within the earlier phases of residential development. Buildings are 2/3 storey in scale and are provided in an arrangement of detached, semi-detached and short terraces. In regard to the proportionate make-up the scheme proposes 10 detached dwellings, 2 semi-attached dwellings, 18 semi-detached dwellings, 35 dwellings arranged in short terraces (each of 3-5 units), three apartments, and two FOGs (Flat Over Garage). There is a mixture of 2, 3 and 4 bed properties.

In regard to detailed design the form again take the modern clean style of the adjacent phases, with largely rendered properties, with grey windows, grey tiled roofs and elements of cladding to add visual interest. This reflects and builds on the evolving character.

There are a number of matters that the applicant has been asked to review. These include:

The design and layout in the area of plots 1-4, in the south east corner of the site, requires further thought as the current proposal presents an unacceptable solution for what is an important corner and entrance point. The outline proposals illustrated a sense of "place" and an informal green space in this area and this is not presently achieved. Officers are in discussion to seek revised detailing of this part of the development that better reflects the outline application and members will be updated on this matter.

The quality of the car parking courts requires further consideration in order to seek a high quality pedestrian friendly environment, as presented at outline stage. Officers are in discussion on raising the quality of boundary treatments, improving hard and soft landscaping, and the solution for waste storage and collection methods. Members will be updated on these points.

Subject to the satisfactory resolution of the corner element in the south-eastern corner, together with improvements to some of the more minor detail of the buildings and arrangement, the design and appearance is considered acceptable, and would be consistent with Policies DE1 and SDP3 in the Torbay Local Plan.

### 3. Highways/Movement:

The development has a fixed access at the south-east corner, which has been approved in detail. This provides access to the site from the wider principal road network near to the PMU unit and further eastwards from the junction with the Brixham Road opposite Roselands Drive.

Within the site the proposed road layout largely follows that indicative layout presented at outline stage. There remains a principal road that runs along the south before turning northwards, with secondary roads and parking courts off it. A pedestrian, cycle and bus link through to adjacent development land to the north remains within the framework of the layout.

The layout provides an appropriate hierarchy of streets and supports the concept of perimeter development to frame the roads with dwellings, to provide natural surveillance of these areas.

The principal road is detailed to provide a link to the north, which is strategically important to ensure there is opportunity to provide the desired access, such as for a bus link or emergency services. The scale of this route is however currently designed with a 4.8m wide carriageway and this is considered inadequate for the purposes of a future bus route. Officers are in discussions with the applicant in order to secure a highway that is at least 5.4m wide (and at least 6m around the corner section) in order that the future bus link is not prejudiced. The applicant has indicated that they are willing to revise the submitted plan.

All other aspects of the highway network are considered acceptable with secondary streets suitably designed and parking courts suitably scaled in order to achieve adequate manoeuvring.

In terms of wider movement patterns there is a "green" footpath along the eastern flank of the development and there are also footway links through the heart of the development. These, together with the highway network, provide good permeability through the site.

Subject to achieving the satisfactory resolution in regard to the width of the principal carriageway, to the satisfaction of the Council's Strategic Transport Officer in consultation with the Highway Authority, the highway and movement detail is considered acceptable.

The Authority should ensure that the relevant Section 38 highway agreement is

obtained guaranteeing that the roads are built to adoptable standards in order to ensure a satisfactory means of access to the dwellings hereby permitted .

In conclusion, subject to the receipt of satisfactory revised plans the proposed development would accord with Policies TA1, TA2 and TA3 in the Torbay Local Plan.

#### 4. Residential amenity:

There are 70 new dwellings which will provide a mixture of 2, 3 and 4 bed properties. There are 10 detached dwellings, 2 semi-attached dwellings, 18 semi-detached dwellings, 35 dwellings arranged in short terraces (each of 3-5 units), three apartments, and two FOGs (Flat Over Garage) within the scheme.

Officers consider that there is a good range of house sizes and that the majority of the properties benefit from rear gardens, with the exception of the upper floor apartments and flats over garages.

The explanation to policy DE3 of the Torbay Local Plan 2012-2030 recommends 55sqm of private amenity space for dwelling houses and 10sqm for flats. A number of gardens fall below this recommended guideline and in terms of detail 23 units have gardens below 40 square metres. Policy DE3 seeks to ensure that all development should be designed to provide a good level of amenity for future residents and uses various factors, including garden sizes, to assess this. It is not considered essential for all dwellings to achieve at least 55m<sup>2</sup> of garden space, but the scheme should present a good residential layout and environment for future users. The close proximity of the "Hill Top" park is relevant to the amenity issue but should not be permitted to undermine the provision of a good-quality residential environment within individual plots. Officers are seeking improvements to the size of gardens where possible and Members will be updated on this matter .

In regard to internal living environments the dwellings are acceptable in terms of internal floor space and are largely well proportioned.

For the majority of plots the level of inter-visibility is limited due to the layout of the dwellings and separation distances. Where there are properties in relatively close proximity to one another they are generally positioned at oblique angles, which will limit any potential harmful inter-visibility.

Subject to practicable enhancement to the garden sizes the quality of the residential environment is considered acceptable for all future users, and would accord with Policy DE3 in the Torbay Local Plan.

#### 5. Parking:

Policy TA3 and the associated appendix F states that the Council will require appropriate provision of car, commercial vehicles and cycle parking spaces in all

new development, with Appendix F outlining the expected guideline.

Appendix F states that, in locations such as this (out of town centre), dwelling houses will be expected to provide two parking spaces per dwelling unit, with apartments requiring one per unit.

At least two parking spaces per dwelling house are provided throughout the development and these are supplemented by additional visitor spaces in two of the three parking courts. There are a number of properties that are afforded a third garage space, however the garages are not size compliant with the new standards outlined within Appendix F and although they could well be used for parking they are not technically considered to be third spaces.

As all dwellings are supported by at least two spaces and all apartments with at least one space, the proposal is considered acceptable in terms of the level of parking provision throughout the development.

Notwithstanding the above there are a handful of plots that have a degree of remote parking and there would appear scope to improve the layout and provide assigned parking nearer to related properties. There are also some anomalies to the parking assigned to certain units. In addition the Highway Officer has raised some concern in regard to the parking for units 50 and 51 set on the corner of the highway and consideration should be given to providing these spaces elsewhere. Officers have requested further consideration of the parking provision and Members will be updated on this matter.

All but one dwelling has access to the rear gardens to enable cycle storage provision to be provided. There is provision within the grounds of the three apartments for cycle storage and clarification of the storage potential for the FOGs is being sought. There is expected scope for compliant storage space either under the staircases or adjacent to the one space that they are required to provide to be policy compliant

Subject to some minor clarification and improvements the parking provision and arrangement is considered policy compliant and suitable for approval.

#### 6. Landscaping:

The outline approval has established a number of conditions relating to landscape in order to protect the current features and related ecological interests, which include construction management and landscape and ecological management parameters being submitted and agreed.

In regard to the proposed landscape the vision presented at outline stage detailed a green lane on its eastern flank with an orchard and informal public space linked by an open meadow seed public footpath. More widely the landscape strategy outlined that native planting would reinforce the existing



planting and seek to create a special place where people could interact with the environment. As a response to the outline proposals the scheme is currently unsuitable for approval. Although the orchard remains the green lane has been weakened by the loss of the informal public space at its southern axis. Improvement to this aspect in order to deliver an acceptable landscape strategy for the site

More widely the level of tree planting appears less significant than that presented at outline stage in terms of both the number of trees planted and also their expected significance. The Council's Arboricultural Officer has highlighted concerns that the level of planting and the choice of species will not adequately soften the built environment. Although the current level and detail of landscaping is considered unacceptable there is considered potential within the layout presented to provide a suitable scheme.

The applicant has indicated that they will seek to strengthen the green route and improve the tree coverage throughout the site. A response is expected prior to the committee and members will be updated.

#### 7. Ecology:

The ecological context was duly considered when consent was granted in outline for 70 dwellings.

A Habitat Regulations Assessment (HRA) was undertaken which concluded that there would be no likely significant effect upon the greater Horseshoe Bat Colony at Berry Head, subject to the imposition of a number of conditions. These conditions sit on the outline consent and it remains that they should be complied with. The Council's ecological advisor has reviewed the Reserved Matters application and has concluded that a further HRA is not required as the development principally accords with the indicative proposals presented at outline stage that informed the HRA. It is noted that Natural England, within their consultation response to the Reserved Matters application, have stated that a number of conditions require satisfying prior to the granting of consent. NE have clarified that they principally support an approach that ensures that all the ecological aspects are dealt with in a timely manner. It is considered that determination of the Reserved Matters would not prejudice the due consideration of the schemes ecological impact as this would not affect compliance with the number of previously imposed conditions.

As appropriate planning conditions were imposed at outline stage to respond to the ecological sensitivity of the site it is not expected that any further conditions in this regard are necessary. The Council's Green Infrastructure Officer has confirmed that suitable planning conditions have already been secured.

In regard to other ecological matters raised in consultation responses the RSPB have highlighted that the parent hybrid application was subject to a S106

financial obligation to secure Cirl Bunting mitigation. The S106 Agreement requires this to be paid to the Council prior to the first occupation of the first dwelling to fund agreed management on identified land at Cockington. The RSPB view that it is prudent to secure the arrangement for this transfer prior to determining the Reserved Matter, which is a view mirrored by the Council's Green Infrastructure Officer. It is considered that the S106 Agreement secures the process and requirements for Cirl Bunting mitigation and thus the Reserved Matters can be determined on its own merits without prejudicing this.

In regard to context the Council is currently considering detail to discharge a number of ecological conditions that are attached to the parent hybrid application.

**S106 -**

A S106 agreement for this site was agreed under application reference P/2015/0124/MOA. No further legal agreement is required.

**Conclusions**

In conclusion, the proposed development largely accords with the outline consent. There are a number of matters that require the submission of revised details. It is expected that this information will be received prior to the Committee meeting.

Subject to satisfactory resolution in regard to the form of development presented to the south-eastern corner of the site, achieving a highway design through the site suitable for a bus link, and resolving concerns in regard to parking arrangements, levels of amenity space, boundary treatments, waste collection detail, the Reserved Matters detail is considered suitable for planning approval, as it would be aligned with the outline detail previously considered by the Authority and accord with relevant Local Plan policy guidance, notably Policies DE1 (Design), DE2 (Building for Life), DE3 (Amenity), DE4 (Building Heights), TA3 (Parking requirements), C4 (Trees, hedgerows and natural landscape features), SS11 (Sustainable communities) and SS3 (Presumption in favour of sustainable development).

Limited conditions may be necessary where they relate directly to the reserved matters. The drafting of any necessary conditions required (in support of those imposed at outline stage) is requested to be delegated to the Head of Spatial Planning.

The applicant will still need to ensure that conditions on the outline consent are satisfied.

**Application Number**

P/2016/0371

**Site Address**

76 Warbro Road  
St Marychurch  
Torquay  
TQ1 3PS

**Case Officer**

Mrs Saffron Loasby

**Ward**

St Marychurch

**Description**

Change of use from printers workshop to MOT testing station, including installation of an MOT lift (additional information received 20 July 2016)

**Executive Summary/Key Outcomes**

The scheme proposes a change of use within a B2 use class. Conditions attached to a previous consent, for a 'printers workshop', restricted permissible changes of use within the Use Class Order to allow for specific assessment of surrounding residential amenity and environmental disturbance that may arise from any change of use.

This application proposes a change of use to an MOT testing centre (B2). It is submitted with a Noise Assessment and Planning Statement.

The proposed MOT testing station would be provided within an existing building that has consent for commercial use. It would result in provision of four jobs. A number of representations both in support and against the proposal have been received. The principle of regeneration and economic investment is supported by Policy SS4 of the Torbay Local Plan.

The principle concerns in respect of this development are the impact of the proposal in relation to noise nuisance and highway safety. The applicant has submitted a noise assessment that concludes that the level of noise that would be generated at the nearest noise sensitive residence would be below the permissible noise level target. However this is on the basis that the building would be fully sealed with windows and doors closed and existing air gaps between roofing sheets and the supporting wall fully sealed. Advice from the Environmental Health Officer is that these conditions would be difficult to achieve at all times when machinery is in operation. Consequently it is concluded that there would be a reasonable likelihood that the proposal would result in noise nuisance to nearby properties, contrary to Policy DE3 of the Torbay Local Plan.

In addition the proposal would require vehicles to reverse onto Warbro Road in a location close to Spires College and opposite school coach drop off points. There is a strong possibility that the proposal would create a hazard very close to a

school and therefore would result in a severe impact on a highway, contrary to Policy TA2 of the Torbay Local Plan.

A balance has to be reached between the positive and negative attributes arising from the proposed development of an existing commercial building in a sustainable location. In this case the detrimental effects on residential amenity and highway safety would not be outweighed by the proposed development and therefore the proposal is not supported.

### **Recommendation**

Refusal. (reasons at end of report).

### **Statutory Determination Period**

8 weeks/Extension of time agreed until 08.08.2016 to allow the application to be considered by the Development Management Committee.

### **Site Details**

The site contains a commercial premises located on Warbro Road, opposite Spires College site and surrounded by residential and holiday accommodation. The most recent lawful use of the building was a printers workshop but it is currently being used by the applicant for storage. There is a small forecourt in front of the building. The front wall has been partly removed to allow for off road parking provision with dimensions for three cars, although two cars parked allow for significantly improved pedestrian access. The vehicular access into the property is via a roller shutter door; accessible when there is no parked vehicle in front of it (hence parking provision for two vehicles is considered to be a maximum). There is also pedestrian access to the front of the building via a Upvc door, both of which front onto Warbro Road.

The building runs the full length of the plot and abuts residential land to the north, east and west, with Warbro Road to the south. The surrounding properties comprise houses, flats and overnight holiday accommodation. There are on road parking restrictions in the immediate vicinity, including double yellow lines, match day parking (given the proximity of the football ground and Spires College) and bus/coach parking only opposite the application site.

### **Detailed Proposals**

The planning proposal is for a change of use of an existing commercial building of approximately 142m.sq. of existing B2 space, specifically a Printers workshop due to a restrictive condition, to an alternative B2 use. The proposed B2 use comprises an MOT testing station, including the installation of a MOT lift. The hours of operation are proposed to be 8am-5:30pm Monday to Friday and 9am-1:30pm on Saturdays. All MOT's will be pre-booked appointments only. No external alterations are proposed to the building. An internal MOT lift would be provided as part of the proposal.

The application proposes to create 4 new jobs.

The application was submitted with a Flood Risk Assessment. Later submissions include a Planning Statement briefly covers the operation management of the proposed business and a Noise Assessment report.

### **Summary of Consultation Responses**

Senior Environmental Health Officer - I have reviewed both the Planning Statement and the Acoustic Consultants report and have a few concerns.

The proposed development is situated between residential properties and overnight holiday accommodation.

Whilst Warboro Road is not the quietest area in Torbay, it is predominately residential in nature and to introduce a general industrial use to such a location, particularly where residential accommodation is in such close proximity does give me cause for concern.

The applicant has submitted an acoustic consultants report in connection with the proposal which argues that there will be little or no impact on the noise environment created by the MOT test facility with the doors etc shut. The report then goes on to propose a number of mitigation measures to ensure there is no cause for concern, such as only sounding the horn of vehicles in an emergency, and keeping doors shut during testing.

Whilst this is good advice, the MOT test includes sounding the horn of the vehicle to ensure it works, I also imagine difficulties with not having doors open during testing, both from a Health and Safety perspective and simple practicality of operating the business when the doors are being continually opened and closed. Roller shutter doors can also be notoriously loud also unless properly maintained.

I am therefore concerned that whilst the operation of this site as a MOT station may be technically feasible without causing detriment to local residential accommodation, I do not feel it would be simple matter for the business to operate in this way and may well impede the operation of the site.

Senior Strategy and Project Officer - I refer to the above application and to the Planning Statement MGR/16/0198A and site layout plan. I also refer to my initial comments dated 22 April 2016, which requested a transport statement dealing with net additional movements, staff travel and parking, road speeds on Warbro Road etc. Paragraph 32 of the NPPF requires assessments to show that safe and suitable access can be provided.

The Planning Statement does not address the issue of traffic speeds or impact on school traffic, including relationship with the coach bays directly outside the site. The Planning Statement suggests 1-2 appointments per hour but does not

consider deliveries and collections, disposal or staff movements.

It does not deal with the existing level of traffic generation. However on the face of it, the traffic generated by an MOT use is likely to be greater than traffic use generated by the existing use as a store, or approved printer's workshop.

It is clear that vehicle turning cannot be provided on site, so that vehicles would need to reverse onto Warbro Road. This is a particular concern given the proximity of Spires College and the school coach drop off points directly opposite the site.

The site layout shows four parking spaces. Local Plan Policy TO3 and Appendix F require 3 car spaces per 3 bays plus visitors' parking. Whilst the numbers shown comply with the requirement in Appendix F, I am concerned that it will be difficult to manoeuvre into these spaces particularly if some are occupied for example by MOT failures. In practice there will need to be some reverse-shunting onto Warbro Road in order to use the spaces. I suspect that it will be simpler for cars to be left on Warbro Road, which could cause hazard in peak periods.

I am aware of the need to support employment in Torbay in the interest of sustainable communities, and that the building has an existing use. However, on the basis of the evidence provided there would be a strong possibility that the proposed MOT Testing station would create a hazard very close to a school. On this basis the Highway Authority is unable to support the application.

If Members were minded to approve it, a s278 Agreement should be required to establish no loading in the vicinity of the coach parking during peak hours. However this would only partly alleviate concerns about highway safety because it would not overcome the need for vehicles to reverse onto the road.

### **Summary of Representations**

There have been over 60 representations in total. Some of which were duplications.

At the time of writing 42 letters of objection and 17 letters of support had been received.

The issues raised in the objections letters are bullet pointed below:

- o Parking problems
- o Out of character
- o Previous planning history is negative
- o Noise pollution (especially through the roof)
- o Traffic congestion
- o Impact on wildlife and trees where the site abuts the Conservation Area

- o Degrade a residential and tourist area
- o Set a bad precedent over development
- o Impact on great crested newts in neighbouring garden
- o Negative impact on pedestrian safety
- o Applicant suggesting additional tyre bay and repair centre (not just MOT)
- o Letters of support are not from residents in the vicinity of the application site
- o Already plenty of MOT centres in the area

The issues raised in letters of support are bullet pointed below:

- o Application to support local businesses
- o Application proposes much needed facilities and contributing to the community
- o Will supply local jobs
- o Noise impact would be minimal when compared to the level of activity in this area by other sources
- o Operations can be restricted and controlled to specific hours to avoid conflict with neighbours
- o All MOT's will be pre-booked so parking will not be an issue
- o Sufficient space on forecourt and in the building for parking
- o Removes an existing eyesore

### **Relevant Planning History**

P/2011/1332 - Change of use from printers workshop to class B1, use of premises for the repair, servicing and sale of gardening equipment and domestic machinery - REFUSED 09.02.2012

P/2006/0566 - Removal of Condition (1) (Ref App P/2004/0741/PA) Continued Use as Printers Workshop - PERMITTED 19.05.2006

P/2004/0741 - Change of Use to Printers Workshop with Office - PERMITTED 02.09.2004

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

The material considerations of this application are with regard to the suitability of the use in the area and the impact it would have on the amenity of the neighbouring occupiers and wider surroundings. There is further consideration given to additional implications of the use, such as parking and highway access and safety.

The key issues in assessing this application are:

1. The principle of the proposed use
2. Character and appearance of the area
3. Neighbour amenity

4. Highway Safety/traffic issues related to vehicular movements generated from the use

#### 1 - The principle of the proposed use

The previous lawful use on the site was a printer's workshop. Measures were included in the decision and application itself to reduce the impact of noise through the inclusion of a soundproof room. There was also a restriction imposed on the operating hours as well as a restriction on any other B2 or B1 use class operating from the site without specific planning consent. This was put in place to ensure that any future application was considered on its merits and specifically meet the criteria of the then relevant Policy E5 of the Torbay Local Plan 1995-2011.

The building is considered to be suitable for an industrial use in terms of space and internal layout. However it is the location and the specific use of the building that causes the most concern.

In this case the existing use comprises a B2 use, the proposed MOT testing station is also a B2 use and listed as a 'General Industry' use in the Town and Country Planning (Use Classes) Order 1987 (as amended), the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

The principle of using the building for a business use is already established and therefore there is material weight in retaining a local business use that is reflective of the size and location of the existing building. The increase in jobs proposed is a positive factor and given the lack of off road parking for a building of this size, employees would have to use public transport, walk or cycle. On road parking in the local vicinity is possible but limited in places by parking restrictions. The promotion of sustainable transport is wholly supported.

It is important to reuse buildings within the urban environment where possible; however the uses must be compatible with the surroundings. It is evident from the conditions that were considered necessary on the previous decision that the site is sensitive and as such an increase in use or industrial style activity could potentially impact the area. An application for a change of use from printers workshop to Class B1, using the premises for the repair, servicing and sale of gardening equipment and domestic machinery was refused in 2012 because the proposed development would have an adverse impact on the surrounding residential amenities and cause environmental disturbance, especially resulting from noise, thus affecting the built environment in that location. The planning history suggests that an industrial use, be it B1(C) or B2, of this building is unacceptable due to its surroundings uses.

During processing this application it was agreed that time for consideration of the



application be extended for determination to allow additional information regarding noise and traffic be submitted for further assessment. The principle of a business use is accepted although what type is largely dependant on the outcome of the required accompanying assessments.

Policy SS4 (The economy and employment) in the Torbay Local Plan encourages new businesses and investment in order to create new jobs. This proposal would result in the creation of four new jobs in a sustainable location. The economic benefit of the proposal has to be weighed against impact of the development on amenity and highway safety. Due to the proximity of residential properties this is a sensitive site that requires a comprehensive assessment of the proposed use in order to determine whether it would be acceptable in this location.

### 2 - Character and appearance of the area

The character of the area is predominately residential. There are residential properties to the north, east and west of the application site with hotel/tourist accommodation also located to the east of the building. Opposite the site, across Warbro Road is Spires College, bound by a high stone wall and metal fencing; on the other side of this boundary are outdoor sport courts. The area of road that runs parallel with the courts is marked out for buses only. The wider character is also primarily residential.

The existing building is a non-descript single storey building with a low pitched roof behind a parapet wall and set back slightly from the road allowing some off road parking provision. The current visual impact of the building in the street scene is minimal and this would not change as a result of the proposed application. However, the use of the building will involve the coming and going of visitors, employers, deliveries and customers, thus materially changing the level of use of the building that was previously permitted. Whilst it is unknown what level of use the printers workshop generated by way of traffic, an MOT testing centre suggests the continuous movement of vehicles, as well as deliveries, visitors and employees. This in turn will have an impact on the existing residential character of this part of Warbro Road. Whilst parking on the road is not entirely restricted along Warbro Road the increased traffic and associated noise and disturbance will also have an impact on the character and appearance of the site and surrounding area.

By its very nature this particular industrial use attracts vehicles. Conditions have been considered in order to help overcome the impact this use may have. However, the Council cannot control on street parking as part of this planning application. In a busy, but primarily residential area the impact the proposed B2 use will have on the character and of the area is considered to be unacceptable.

### 3 - Neighbour Amenity

Noise can have a significant effect on the environment and on the quality of life

enjoyed by individuals and communities. The Planning system should ensure that wherever practicable, noise sensitive developments are separated from major sources of noise, and that new development involving noisy activities should, if possible be sited away from noise sensitive land uses. Where it is not possible to achieve such separation of land uses, officers need to consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise through the use of conditions.

The impact of the use of this building has previously been a sensitive matter. Due to the proximity of neighbouring residential occupiers to the application site specific environmental matters should be fully addressed. These would cover noise and odour pollution from the new use of the building (as well as highway safety which is discussed separately in more detail below). Whilst the applicant explains that there would be only several minutes of engines running per vehicle MOT test, as a business this would happen regularly throughout the day. It is highly unlikely that the openings in the building will be permanently shut throughout testing and therefore consideration must be given to the noise and odour pollution that will be emitted from the building that does not, as far as we are aware, have any air filtering system or noise mitigation in place. The previous use as a printers had to provide a sound proof room for its' noisiest equipment, details of which were submitted as part of the application.

The noise assessment submitted by Arun Acoustics in support of the application specifically assessed plant and equipment associated with an MOT testing centre. It considers maximum permissible noise levels for plant and equipment, operational noise levels and calculated attenuation losses and predicted noise levels at nearby residential dwellings from daily operations.

The conclusion of the assessment under section 8.0 of the report advises that based on measured noise levels for typical plant and machinery associated with an MOT test centre, noise breakout calculations show that noise levels at the nearest noise sensitive facade would be at worst 32dBA. As this does not exceed the maximum permissible noise level target it is considered unlikely that noise levels would cause complaints. It is also noted under part 7.3 of the same report that the calculations are based on the building being fully sealed. Reference is made noting that the existing building is not fully sealed and that all air gaps between the roof and supporting walls should be fully sealed with expanding foam, or mineral wool insulation to prevent noise breakout. It also refers to a noise management plan, detailing various mitigation efforts (although not an exhaustive list) that should be considered to reduce the likelihood of disturbance. These include the following:

- o Slamming of car doors/bonnets should be avoided
- o Avoid the use of car horns
- o Roller shutter doors should be closed when high level machinery or tools are used

- o Slow release of air from tyres under pressure and covering the valve with a cloth
- o Cars fitted with retro exhaust systems should be reversed into the garage with the exhaust system facing away from door openings
- o Carry out high impact activities on rubber matting over a solid surface
- o When purchasing new equipment select new equipment that has reduced sound powers levels through innovative or technical means. As general guidance select equipment with a sound power level of less than 65dB Lw.

Noise pollution is not only caused by running engines. The noise associated with a B2 use and more specifically an MOT test centre (with associated vehicle repairs) also comes from general coming and going, car doors opening and shutting, power operated machinery, horns, reversing beepers, metal on metal work and other associated mechanical related noises. All of which will have an impact on neighbour amenity. Whilst noise mitigation measures have been suggested as part of the report, conditions would have to be put in place to ensure the new use could operate fully without adverse noise impact on neighbour amenity.

Paragraph 206 of the National Planning Policy Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable.

It is questioned that if conditions were put in place would they meet these tests and whether the restrictions in place would limit the functionality of the proposal to such an extent that the scheme would not be workable as an MOT test centre. For example a condition requiring all doors and windows to be shut when high level machinery or tools are used. This would include the closure of the roller shutter door, the pedestrian door and would not allow for ventilation or access/egress whilst work was being carried out. This would not be reasonable. The use of 'high level machinery or tools' is not precise and enforcing this would be difficult. Additionally, requesting the applicant to purchase select noise sensitive equipment is not considered to be relevant to planning and to the development being permitted, nor would it be enforceable.

In conclusion, the submitted noise report states that noise levels generated by the proposed development would be acceptable only if the building is acoustically sealed and recommends a number of measures to be carried out during operation to ensure that there is no noise nuisance. Advice from the Senior Environmental Health Officer is that it would be unlikely that the business could operate with the doors shut during testing for practical reasons. Therefore there is concern about whether the proposed use could be carried out without causing a noise nuisance. Consequently it is considered that the proposal would fail to meet the requirement in Policy DE3 for new development to provide a good level of amenity for residents and occupiers.

#### 4 - Highway Safety

As per the comments from the Senior Strategy and Project Officer there are concerns about highway safety in this location. The application is not supported by a Transport Statement and there are concerns that traffic problems may not be capable of resolution. There is no existing off road manoeuvrability on site nor is there capacity for it. There is little, if any, control as part of this application over the way in which on road parking is carried out. Customers and those associated with visiting the site would have to ensure they complied with the local parking restrictions or face parking fines.

Whilst there is some merit in visitors having specific appointment times to assist in reducing visitor and car numbers, the reality is that most people have their cars MOT'd around a time and date in the week that is suitable to them, fixing it around work, childcare, shopping, weekends etc. Not many have time to sit and wait for their cars to be MOT'd and to drive them away straight after. Failed MOT's can result in a number of cars not being driven away at all and technically not permitted to be on public roads.

Whilst the planning statement and drawing no. MGR/16/0198A/01 show how parking provision can meet the Council standards the loss of on street parking or public parking provision is a material consideration in planning applications, with additional weight being given to loss of provision in those areas where there is congestion and/or heavy use of public or on street spaces. Additionally there is no reference or assessment of the existing or proposed traffic levels, staff travel/parking and the impact this will have on highway safety. testing station would create a hazard very close to a school and therefore the Highway Authority does not support the application. Consequently the proposal would be contrary to Policy TA2 which seeks to ensure adequate new development proposals do not impact on the wider network by causing/adding to congestion and provide for safe turning/manoeuvring of vehicles within the site.

**S106/CIL** - No S106 contribution would be applicable in this case.

#### Conclusions

The determination of the application has been delayed so that the applicant can present the proposed scheme with the assistance of the relevant reports regarding noise and traffic generation.

The noise assessment claims that the proposed use will not have an adverse impact on the amenity of neighbouring occupiers subject to the provision of proper noise insulation and a noise control management plan. The noise assessment is considered by the EHO to be acceptable, however the strict conditions that would be necessary to enable the scheme to go ahead are considered to be unreasonable and mostly unenforceable. It is considered that the business would be unlikely to reasonably function as proposed and thus the control of noise from the site is still a problem. The proposal would therefore be

contrary to Policy DE3 of the Torbay Local Plan.

The planning statement fails to fully address the impact the proposed development will have on the users of Warbro Road by way of traffic movement and therefore there is still considerable concern about highway safety, parking provision and manoeuvrability for this specific B2 use. Consequently the proposal would be contrary to Policy TA2 of the Torbay Local Plan.

Officers consider a change of use to be a positive proposal in light of the benefits it could bring to supporting local business and the generation of employment; however it has not been proven that the promotion of this business use in this location outweighs the identified harm that has been identified during this application process. No evidence has been presented to indicate that the proposed use is the only viable use for the site and officers recommend that this scheme is refused for the following reasons:

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

1. The proposed use would have an adverse impact on the surrounding residential amenities and cause environmental disturbance, especially resulting from noise, contrary to policy DE3 Torbay Local Plan adopted December 2015. Notwithstanding the submitted Noise assessment and subsequent comments received from the Council's Environmental Health Manager, conditions which would seek to control the impact of noise and disturbance to local residents are considered to be too restrictive to enable the proposed change of use to function properly and fully, and are impracticable. It is also considered that they would not meet the relevant tests of paragraph 206 of the National Planning Policy Framework as they would be difficult to enforce and unreasonable in all other respects.
2. The proposed change of use would create a traffic hazard by reason of an increased number of vehicles reversing onto Warbro Road in proximity to Spires College, opposite school coach drop off points, and an increased demand for on street parking in the vicinity of the site. As such the proposed development would be contrary to Policy TA2 of the Torbay Local Plan adopted December 2015 which supports development that does not impact on the wider network, by causing/adding congestion and provide safe turning/manoeuvring within the site, particularly for commercial development, and para. 32 of the NPPF.

### **Relevant Policies**

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# Agenda Item 10

**Application Number**

P/2016/0545

**Site Address**

Holme Court  
Lower Warberry Road  
Torquay  
TQ1 1QR

**Case Officer**

Saffron Loasby

**Ward**

Wellswood

**Description**

Replacement balconies to the south, east and west elevations (description amended 22 July 2016)

**Executive Summary**

This application is being presented to Planning Committee because a member of the Holme Court (Torquay) Association, who is the applicant, is also an employee of Torbay Council.

The scheme proposes replacement balcony materials comprising clear toughened glass on all balconies in the block of flats known as Holme Court. They are all predominately south facing, however also allow views to the east and west. One objection has been received with regard to increased noise and overlooking.

The site is located in the Warberries Conservation Area. The proposal is considered to be an appropriate alteration to the original property and the wider street scene. The proposal would maintain the quality of the street scene within the context of the Warberries Conservation area and would conserve the character of the conservation area. As such it would be consistent with Policy SS10 in the Torbay Local Plan.

**Recommendation**

Approval, subject to no further representations being received during the consultation period that have not been previously considered by the Development Management Committee.

**Statutory Determination Period**

Extension of time agreed until 08.08.2016 to allow the application to be considered by the Development Management Committee.

**Site Details**

The site, Holme Court, Lower Warberry Road is a block of residential flats located within the Warberries Conservation Area. The building comprises a white render, 8 storey building (including the ground floor) with Upvc windows

and small external balconies.

### **Detailed Proposals**

The application seeks permission to replace the existing painted steel balustrades and the obscured GRP (glass reinforced plastic, also referred to as fibreglass) infill with light weight stainless steel balustrades and toughened glass. The glass used on the balconies will be clear and the privacy screen separating the balconies that neighbour each other (primarily down the middle of the building) will comprise of 20% white acid etch effect thus retaining an element of privacy to each occupant. The replacement balconies are proposed to the whole of the building and are considered to improve the character of the property within the Conservation Area according to the submitted Statement of Historic Significance.

It is understood that the application was presented to residents prior to the formal submission where it was fully supported.

### **Summary of Consultation Responses**

Senior Historic Officer: No objection.

### **Summary of Representations**

One representation was received from the occupier of a residential property to the east of the application site. Concern has been raised by the use of clear glass and the potential to increase noise levels.

One representation was received from an occupier of Holme Court fully supporting the scheme and the improvements it will have on the building and to the residents.

These representations have been sent electronically for Members consideration.

### **Relevant Planning History**

None relevant to this application.

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

The key issues are as follows:

1. The principle of development
2. Impact on character and appearance of the Conservation Area
3. Impact on neighbour amenity

#### *1. Principle of Development*

The proposed works are to an existing block of flats in an area of predominately residential character. The site is located in the main built up area of Torquay and is not isolated in its wider context. The principle of development is considered to be in accordance with the requirements of Policy SS3 Presumption in favour of

sustainable development and subject to meeting other policy criteria.

2. *Impact on the character and appearance of the Conservation Area*

The proposal comprises the replacement of the existing glass reinforced plastic (GRP) which is predominately white in colour with clear toughened glass. The existing balustrades are unchanged from the original development of the building and in need of updating.

The building, whilst in a Conservation Area, is relatively modern in terms of design and the windows as existing comprise Upvc. These will remain unchanged as part of this application. The elevations of the flats have a fairly uniform appearance and replacing all of the balconies with the same materials will help reduce any adverse impact on the wider context of the Conservation Area. The glass material is considered to be acceptable and reflective of materials used on other balconies in the area.

The proposal is considered to be an appropriate alteration to the original property and the wider street scene. The proposal is therefore considered to maintain the quality of the street scene within the context of the Warberries Conservation area.

3. *Impact on neighbour Amenity*

Concern has been raised from a local resident regarding the potential to exacerbate overlooking and increase of noise on the adjoining private amenity space of neighbouring properties. In this case the occupier resides in Daphne Close, to the east of the application site. The relationship between the existing flats and the rear gardens of those adjoining the application site has long been in place. The flats appear on historic maps between 1969-to mid 1970's and the houses being developed a little later. The design and materials of the balconies in Holme Court have not changed since this time and the refurbishment is considered to be long overdue.

It is the east facing elevation of the block of flats that has been questioned with regard to overlooking; however the balconies all predominately face south. The potential to overlook is already present and the inclusion of new glass balcony returns will not exacerbate this. The glass located between properties will be slightly opaque and 2m in height, therefore privacy between flats will not be adversely impacted.

With regard to noise, it is not considered that the new material for the balconies will have an adverse impact on the noise levels coming from the balconies being used by its residents. Glass is generally a good material for absorbing noise and reverting back to the original source; however the representation raised concern about people talking on phones and shouting from balconies to and from the pool area. It is unlikely that the material will exacerbate or reduce this.



### **Conclusions**

The proposed development is considered to be appropriate for planning approval. The change in material to glass will not have an adverse impact on the street scene or Conservation Area and nor will it unreasonably increase noise levels or overlooking. The development of the agreed works are likely to result in a significant amount of work over a potentially lengthy time period and therefore a condition has been included to restrict the construction process during certain hours in order to protect neighbour amenity.

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

The development, hereby approved, shall be constructed only between the hours of 08.00hrs and 1800hrs Monday to Friday, 0900hrs to 1300hrs on a Saturday and not on Sundays or Bank Holidays unless with the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area.

### **Relevant Policies**

SS10 - Conservation and Historic Environment

DE1 - Design

DE3 - Development Amenity