



Friday, 3 March 2017

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 13 March 2017

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 Pentney

Councillor Robson
Councillor Stringer
Councillor Tolchard
Councillor Winfield

A prosperous and healthy Torbay

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

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Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 8)
To confirm as a correct record the Minutes of the meeting of this Committee held on 13 February 2017.
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. **286-288 Totnes Road, Paignton, TQ4 7HD - P/2015/0679/R3** (Pages 9 - 16)
Demolition of one pair of semi-detached houses and redevelopment with 2 no. x 3 bed houses and 5 no x 2 bed flats with associated parking.
6. **Whitehill Country Park, Stoke Road, Paignton, TQ4 7PF - P/2016/1253/MPA** (Pages 17 - 27)
Additional mobile holiday accommodation and associated engineering works; replacement of toilet block with mobile washroom facility; new tennis court.

7. **Devonshire Park (Formerly Nortel Site) Proposed Unit C Shown On Plan 14290 007B Land Off Brixham Road, Long Road Former Nortel Site, Paignton, TQ4 7BE - P/2016/1372/MVC** (Pages 28 - 40)
Variation of condition P1, 34 and 35 of P/2014/0947(Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping.) to vary Condition (P1) - Approved Plans to omit reference to the Masterplan, Condition (34) to vary the minimum unit size restriction for 1 unit and Condition (35) to clarify the restriction of concessions.
8. **Myplace, Parkfield, Colin Road, Paignton, TQ3 2NR - P/2017/0121/MPA** (Pages 41 - 56)
Relocation of Torbay School to MyPlace, Parkfield. Alterations to MyPlace, Parkfield and construction of new single storey extension for Torbay School.
9. **Land At Raleigh Avenue, Adj. Davis Avenue, Chelston, Torquay, TQ2 6DU - P/2017/0031/CU** (Pages 57 - 60)
Installation of 12.5m monopole, 2 microwave dishes, 2 equipment cabinets and associated works.
10. **Land At Princess Gardens, Off Torbay Road, Torquay, TQ2 5EY - P/2017/0092/PA** (Pages 61 - 76)
Change of use of land for the temporary erection and operation of a 50m observation wheel, carousel and associated ancillary development (5 year period between the period of March to the 31st October).
11. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
12. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 8 March 2017. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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



Minutes of the Development Management Committee

13 February 2017

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Cunningham, Robson, Stringer, Winfield, Pentney and Tolchard

(Also in attendance: Councillors Amil, Brooks, King and Lewis)

77. Apologies for absence

An apology for absence was received from Councillor Morey.

78. Minutes

The Minutes of the meeting of the Development Management Committee held on 9 January 2017 were confirmed as a correct record and signed by the Chairman.

79. Urgent Items

The Committee considered the items in Minute 87, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

80. Former B&Q, Korean Martial Arts Academy and Zion Road Chapel, Tor Hill Road and Zion Road, Torquay - P/2016/0730 P/2016/0729 P/2016/0914

The Committee considered three applications for:

P/2016/0730 – former B & Q site: change of use, alterations and extensions to form 19 residential units to include parking/storage facilities and the retention of 663sqm retail/commercial floorspace.

P/2016/0729 – former Korean Martial Arts Academy: change of use from Martial Arts Centre into three dwellings, to include roof extension and alterations.

P/2016/0914 – former Zion Road Chapel: Alterations to and conversion of former chapel to form 6 apartments including car parking at ground floor level and extensions to both roof slopes. Demolition of northern workshop extension and formation of single dwelling.

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

the meeting Dr Patrick Lowe, Ms Margaret Forbes-Hamilton and Mr Hugh Bromage addressed the Committee in support of the applications.

Resolved:

- (i) that application No P/2016/0730 in relation to the B&Q building be approved subject to the Torbay Development Agency confirming the Independent Viability Assessment presents a robust assessment of the viability of the scheme, to the possible inclusion of minor works to secure improved connectivity with the wider urban area and inclusion of conditions relating to:
 - a) large scale details
 - b) samples of materials
 - c) Servicing Plan including refuse strategy based on preliminary
 - d) strategy included in approved Transport Statement
 - e) implementation of parking facilities prior to occupation
 - f) provision of bike storage and electric charging points
 - g) advisory conditions in relation to Bats and Breeding birds
 - h) implementation of recommendations included in contaminated land report
 - i) the use of the ground floor commercial space being defined as A1, A2, A3 OR B1
 - j) submission of a construction management plan prior to the commencement of works
 - k) two year period for commencement of development

- (ii) that application No P/2016/0729 in relation to the Korean Martial Arts Building be approved subject to the inclusion of conditions relating to:
 - a) large scale details
 - b) samples of materials
 - c) advisory conditions in relation to Bats and Breeding birds
 - d) no Permitted Development
 - e) submission of a construction management plan prior to the commencement of works
 - f) two year period for commencement of development

- (iii) that application No P/2016/0914 in relation to the Zion Road Chapel be approved subject to the submission of a revised plan incorporating the Council owned land to be purchased adjacent to Tor Hill Road and extending the redline to include this land within the application site and to the inclusion of conditions relating to:
 - a) implementation of works to former Council owned land adjacent Tor Hill Road including erection of natural stone wall in accordance with previously agreed sample panel prior to occupation
 - b) implementation of schedule of works including stone and brick detail cleaning, reinstatement of windows and works to restore appropriate dimensions to vehicular access prior to occupation
 - c) implementation and maintenance of landscaping.
 - d) implementation of parking facilities prior to occupation.

- e) implementation of refuse storage, bike storage and electric charging points prior to occupation
- f) large scale details
- g) samples of materials
- h) provision of bike storage and electric charging points
- i) advisory conditions in relation to Bats and Breeding birds
- j) submission of a construction management plan prior to the commencement of works
- k) the car parking spaces on the land adjacent to the Chapel being tied to occupation of the Zion Road Chapel site or the former Martial Arts building
- l) two year period for commencement of development.

81. 1-2 Kents Road, Torquay - P/2016/1316/MPA

The Committee considered an application for the conversion and change of use from care home (C2) to 12 residential apartments (C3) to include internal and external alterations.

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

Resolved:

Approved subject to:

- (i) the final drafting of conditions, to include those set out in the submitted report, being delegated to the Head of Business Services;
- (ii) securing appropriate boundary railings details. If railings cannot be secured the Chairman of the Committee to be consulted prior to determination; and
- (iii) the completion of a Section 106 Agreement or the receipt of an upfront payment to secure necessary planning obligations being delegated to the Head of Business Services prior to the 14th March 2017 or within 3 months of the date of this Committee if an extension of time is agreed with the applicant.

82. 1-2 Kents Road, Torquay - P/2016/1317/LB

The Committee considered an application for the conversion and change of use from care home (C2) to 12 residential apartments (C3) to include internal and external alterations.

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

Resolved:

That Listed Building Consent be granted, subject to the final drafting of conditions set out in the submitted report being delegated to the Head of Business Services.

83. Hotel Blue Conifer, Higher Downs Road, Torquay - P/2016/1354/PA

The Committee considered an application for the demolition and redevelopment to form 9 sheltered apartments for the elderly including communal facilities, access, car parking, and landscaping.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. A late representation was read out at the meeting. At the meeting Mr Colin Roulstone addressed the Committee against the application and Mr Simon McFarlane addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Brooks addressed the Committee.

Resolved:

Approved, subject to:

- (i) the final drafting of conditions, to include those set out in the submitted report being delegated to the Executive Head of Business Services; and
- (ii) the inclusion of an additional condition in respect of surface water drainage.

84. Telephone Exchange, Goshen Road, Torquay - P/2017/0030/CU

The Committee considered an application for a proposed 15m mast and associated cabinets.

Prior to the meeting written representations were circulated to members and late representations were read out at the meeting. At the meeting Mr Kevin Sullivan addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Amil addressed the Committee.

Resolved:

Prior approval is granted.

85. Land At Raleigh Avenue, Adj. Davis Avenue, Torquay - P/2017/0031/CU

The Committee considered an application for the installation of 12.5m monopole, 2 microwave dishes, 2 equipment cabinets and associated works.

Prior to the meeting written representations were circulated to members. In accordance with Standing Order B4.1 Councillor Amil addressed the Committee.

Resolved:

That the application be deferred to be considered by the Committee on 13 March 2017.

86. Land West Of Brixham Road, Paignton - P/2016/0188/MRM

The Committee considered an application for the 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).

Prior to the meeting, written representations were circulated to members. At the meeting Mr Robert Loxton and Mr Laurence Frewin addressed the Committee in support of the application.

Resolved:

Approved, subject to further consultation with Natural England confirming the acceptability of the Habitat Regulation Assessment, further consultation with Environmental Health with regard to the impact on future occupants of nearby dwellings, clarification from the applicant with regard to the accuracy of the submitted landscape and visual impact assessment and amendments to the landscape mitigation and the submission of surface water drainage information. Final drafting and determination of appropriate planning conditions to be delegated to the Executive Head of Business Services.

87. Former Rossiter and Sons Site, 13-17 Palace Avenue, Paignton - P/2016/0585/MPA

The Team Leader for Development Management outlined the draft Section 106 Agreement in respect of the above application and sought members' approval to the proposed contributions as follows:

Waste Management:	£1,600
Education: (Curledge Street Primary new nursery provision, Oldway Primary School new school library, Whiterock Primary School new nursery provision)	£8,610
Lifelong learning:	£6,380
Public Realm: (Palace Avenue/Totnes Road/Victoria Street junction Hyde Road/Victoria Street/Torbay Road junction)	£29,570
Total	£46,160

Resolved:

That the contributions for the Section 106 Agreement be approved as set out above.

Chairman

Application Number

P/2015/0679

Site Address

286-288 Totnes Road
Paignton
Devon
TQ4 7HD

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Demolition of one pair of semi detached houses and redevelopment with 2 no. x 3 bed houses and 5 no x 2 bed flats with associated parking

Executive Summary/Key Outcomes:

The application site occupies a corner plot on the junction of Totnes Road and Kings Ash Road. The existing site is currently occupied by two semi detached two storey houses which are in a state of disrepair. The site is owned by Torbay Council.

There are trees located within adjacent sites which pose a constraint to the development of the site. An area of land to the south eastern corner of the site has been excluded from the application site as it may be required for future road junction improvements.

The application is for outline planning permission with all matters reserved except access for the demolition of the existing two semi detached houses and erection of 2 three bedroom dwelling houses and 5 two bedroom flats and associated parking to serve the development.

Whilst the proposal is in outline only, indicative plans have been submitted detailing the appearance, scale and layout of the proposal. The plans indicate a part two storey and part three storey building which is located towards the south of the site and has frontages facing both Totnes Road and Kings Ash Road. The layout indicates private gardens for house 1, 2 and the two ground floor flats. The three upper floor flats benefit from balconies only. The indicative plans show 11 parking spaces and access from Kings Ash Road. A bicycle and bin store is also indicated on the layout plan.

The application site is within the urban residential area of Paignton and policy H1 of the 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. One of the specific criteria of this policy notes the objective to maximise the re-use of urban

brownfield land. It is also noted within policy SDP1 that Paignton will provide around 4,290 new homes over the plan period. The principle of residential development in this location is considered acceptable and compliant with policy H1 of the Torbay Local Plan 2012-2030. Subject to the inclusion of conditions and confirmation from the Council's Drainage Engineer that the submitted Drainage Strategy is acceptable, the proposed residential development in this location is considered acceptable and compliant with policies SS8, SS11, H1, C4, DE1, DE3, ER1 and ER2 of the Torbay Local Plan 2012-2030.

Recommendation:

Conditional approval. Final drafting of conditions to be delegated to the Executive Head of Business Services.

Recommended Conditions:

1. Reserved Matters
2. Tree Protection
3. Details of cellular root protection system
4. Landscaping scheme including biodiversity enhancements
5. Implementation of drainage scheme
6. Submission of reptile mitigation strategy
7. No vegetation removal or demolition during bird nesting season
8. Provision of cycle storage
9. Provision of bin storage and submission of waste management strategy
10. Provision of parking provision

Statutory Determination Period:

8 weeks, the determination date was the 18th December 2015. However due to the need for further information this date has been extended to allow for this information to be submitted. An extension of time to determine the application has been agreed with the applicant.

Site Details:

The application site occupies a corner plot on the junction of Totnes Road and Kings Ash Road. The existing site is currently occupied by two semi detached two storey houses which are in a state of disrepair. The site is owned by Torbay Council.

There are trees located within adjacent sites which pose a constraint to the development of the site. Two of these trees are protected by a tree preservation order. These trees are located within sites to the north and west of the application site.

An area of land to the south eastern corner of the site has been excluded from the application site as it may be required for future road junction improvements.

Detailed Proposals:

The application is for outline planning permission with all matters reserved except access for the demolition of the existing two semi detached houses and erection of 2 three bedroom dwelling houses and 5 two bedroom flats and associated parking to serve the development.

Whilst the proposal is in outline only, indicative plans have been submitted detailing the appearance, scale and layout of the proposal. The plans indicate a part two storey and part three storey building which is located towards the south of the site and has frontages facing both Totnes Road and Kings Ash Road. The layout indicates private gardens for house 1, 2 and the two ground floor flats. The three upper floor flats benefit from balconies only. The indicative plans show 11 parking spaces and access from Kings Ash Road. A bicycle and bin store is also indicated on the layout plan.

Summary of Consultation Responses:

Arboricultural Officer: As highlighted in the Tree Report there are six trees of note on or in the immediate vicinity of the site which will be affected by the proposed construction, with tree preservation order TPO2014.005 T1 & T2 extant upon trees noted as T2 and T1 on the supporting tree survey. The combination of the high usage junction, quality of the trees and local landform combine to significantly heighten the public visual amenity contributions made by the protected trees. The proposed entrance and car parking areas are situated across root protection areas of both TPO'd trees. No constraints presently exist to restrict root growth into the site as the boundary is formed of a fence and the rear to the properties is grassed sward. Submission of special methodology to construct a no-dig solution to form parking areas would be essential. Mitigation planting must be provided within the site boundaries.

Additional comments following submission of additional information requested:

The scheme is acceptable on arboricultural merit. A pre-commencement condition requiring further detail on the cellular root protection system.

Drainage Engineer: As infiltration drainage is not suitable for this site the applicant has identified that the surface water drainage will discharge at a controlled rate to the surface water sewer in Kings Ash Road.

The applicant must demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the development. The applicant must supply calculations to prove that the tank and connected surface water drainage system is suitable for the critical 1 in 100 year design event plus a 30% allowance for climate change.

Green Infrastructure Coordinator: An assessment of the ecological impacts of the proposed development needs to be made and details of any required mitigation, compensation and enhancement measures provided.

South West Water: No development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Highways Engineer: The applicant will be required to enter into a 278 Agreement to construct the new footway and reinstate the vehicle crossing back to a footway. Highways have no objections to this application.

Summary Of Representations:

1 representation of objection has been received. Issues raised: Houses should be restored to contribute to housing stock rather than demolished. This representation has been sent electronically for Members consideration.

Relevant Planning History:

P/1980/1168	1 dwelling REFUSED 02.07.1980
P/1980/1937	Rear porch APPROVED 01.09/1980
P/1982/1901	Extension APPROVED 30.09.1982
P/1988/2098	Erection of bungalow with shared access onto Kings Ash Road (in outline) REFUSED 09/11/1988
P/2000/0841	Change of use from residential dwelling house to offices for social services WITHDRAWN 16.10.2000
P/2009/0573	Change of use from residential to use as site office accommodation for duration of works associated with proposed Tweenways Cross junction improvement scheme APPROVED 04.08.2009

Key Issues/Material Considerations:

- ***Principle of residential development:***

The application site is within the urban residential area of Paignton. Policy H1 of the 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. One of the specific criteria of this policy notes the objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and

liveable urban areas. It is also noted within policy SDP1 that Paignton will provide around 4,290 new homes over the plan period. In line with these policies, the principle of further residential accommodation on this site is considered acceptable.

The demolition of the existing dwellings is considered acceptable. The existing dwellings are currently in a state of disrepair and are not of a particular design which would warrant their retention and re-use rather than demolition and redevelopment. The points raised within the public representation received are noted and whilst the restoration of the existing dwellings and their earlier re-use would have been beneficial it is not considered to constitute a reason to refuse the current proposal under consideration.

- **Trees:**

There are six trees on or in the immediate vicinity of the site which will be affected by the proposed development. Two of these trees are subject to tree preservation order TPO2014.005. These trees contribute to the visual amenity to the area being highly visible from public areas. The proposed entrance and car parking areas are situated across root protection areas of both trees subject to the tree preservation order. The construction method of the access and parking area will significantly affect a large proportion of the present rooting area and therefore a no dig solution for the parking area would be required. The submitted tree information is considered sufficient to demonstrate that the indicative layout could be constructed without impact on the existing trees subject to further information being submitted regarding the cellular root protection system via a pre-commencement condition.

The development will result in the loss of two trees within the site and suitable replacements to mitigate their loss will be required. This will be considered further at the later reserved matters stage.

- **Biodiversity:**

The submitted ecological report states that no evidence of presence of or use by bats were found within the existing two dwellings and no potential roosting locations or access features were detected outside of the buildings. In addition no nesting bird activity around the outside of the building was found, but potential habitat was noted on the south facing elevation and along on the western boundary of the site. No nesting bird activity was found within the roof voids. No reptiles were found at the time of the survey but favourable habitat was noted in the rear garden.

No further surveys are required in terms of bats. However a nesting bird survey will be required if vegetation is to be cleared within bird nesting season and a general reptile mitigation strategy will be required by condition in the absence of a summer time survey being carried out and confirming the absence of reptiles. The proposals are considered acceptable and compliant with policy NC1 of the

Torbay Local Plan 2012-2030 subject to the imposition of conditions relating to no vegetation removal works or demolition being undertaken during bird nesting season, the submission of a reptile mitigation strategy, the submission of a landscaping scheme which includes biodiversity enhancements and bird and bat roosting features.

- **Access, Parking Provision, Cycle and Waste Storage:**

The access to the site in terms of visibility is considered acceptable in line with comments from the Council's Highways Engineer. A condition requiring a Section 278 agreement prior to occupation to secure the vehicle crossover and footway works is recommended by condition.

The proposals include 2 parking spaces per dwelling house, 1 space per flat and 2 visitor spaces which is compliant with policy TA3 and associated with appendix F of the Torbay Local Plan 2012-2030.

Cycle storage provision and waste storage provision is noted on the indicative plans. Such provision will be secured by conditions and will be expected to meet the requirements of policy TA3 and associated appendix F. A waste management strategy will also be secured by condition to explain how the proposals will encourage recycling, minimise waste and aid the collection of the waste.

- **Scale, Design and Layout:**

Whilst the application is for outline consent only with matters relating to scale, layout, design and landscaping reserved for later consideration, the amount of development in relation to the scale of the site is a consideration. Indicative plans have been submitted to demonstrate that 7 residential units can be accommodated on the site.

The site is made up of two existing housing plots which are of a similar size to others to the north of Totnes Road. The proposed scheme would represent a higher density form of residential development than currently present on the north side of Totnes Road. It is however noted that there are examples of other high density development within the vicinity particularly in corner locations on this junction. It is considered that a higher density development of three storeys in this corner location can be accommodated on this site comfortably without resulting in the overdevelopment of the site.

The indicative plans demonstrate that 7 residential units can be accommodated on the site together with private amenity space for four units and balcony areas for the three upper level flats, a policy compliant level of parking provision, cycle storage and bin storage. There is a concern regarding the proximity of the flats to the south eastern boundary of the site, however it is considered that this can be successfully resolved via amendments to the layout without impacting on existing trees, parking provision or the level of outdoor space available for the

units. The private amenity space afforded to the upper floor flats is limited being less than 10sqm however amendments to the layout of the rear gardens could allow for a communal area to serve these units to ensure a suitable level of outdoor amenity space is provided. Again this issue can be resolved and considered further at a later reserved matters stage.

The overall design of the building is not particularly innovative nor does it appear to be locally distinctive in terms of materials or architectural features. The design of the building will be considered further at reserved matters stage.

- **Residential Amenity:**

The proposals are considered acceptable and without serious detriment to residential amenity by reason of loss of privacy, light or by reason of being unduly dominant or overbearing.

The indicative layout shows the proposals following the line of the existing dwelling house and no windows in side elevations. Side facing windows in the west elevation of flat 4 are located 20m from the boundary with the neighbouring properties to the west and as such is not considered to result in any serious detriment to residential amenity. Rear facing windows are not considered to result in any serious detriment to residential amenity by reason of loss of privacy. Due to the location of the proposals in relation to existing buildings, they are not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing. The proposals are considered compliant with Policy DE3 of the Torbay Local Plan 2012-2030 in terms of neighbouring residential amenity.

The proposals are for 2 three bedroom dwelling houses and 5 two bedroom flats. The indicative plans illustrate that the proposed residential units are comparable with the size standards noted within policy DE3 of the Torbay Local Plan 2012-2030. The units provide an adequate living environment together with external amenity space afforded to each of the units. As noted above the level of private amenity space for the upper flats is below the 10sqm noted within the guidance to policy DE3. However amendments to the layout of the rear gardens could allow for a communal area to serve these units to ensure a suitable level of outdoor amenity space is provided. Again this issue can be resolved and considered further at a later reserved matters stage.

- **Drainage:**

A revised drainage strategy has been submitted in response to comments from the Council's Drainage Engineer. The Council's Drainage Engineer has been consulted on the revised strategy and their comments will be presented to the Members at the Committee meeting.

S106:

No financial contributions are sought from this development.

Conclusions

The principle of residential development in this location is considered acceptable and compliant with policy H1 of the Torbay Local Plan 2012-2030. Subject to the inclusion of conditions and confirmation from the Council's Drainage Engineer that the submitted Drainage Strategy is acceptable, the proposed residential development in this location is considered acceptable and compliant with policies SS8, SS11, H1, C4, DE1, DE3, ER1 and ER2 of the Torbay Local Plan 2012-2030.

Relevant Policies

H1LFS Applications for new homes_
SS12 Housing
SS11 Sustainable Communities Strategy
DE1 Design
DE3 Development Amenity
ER1 Flood Risk
ER2 Water Management
SDP1 Paignton
NC1LFS Biodiversity and Geodiversity
C4 Trees, hedgerows and natural landscape
SS8 Natural Environment
TA1 Transport and accessibility
TA2 Development access
TA3 Parking requirements

Application Number

P/2016/1253

Site Address

Whitehill Country Park
Stoke Road
Paignton
TQ4 7PF

Case Officer

Mr Alexis Moran

Ward

Blatchcombe

Description

Additional mobile holiday accommodation and associated engineering works; replacement of toilet block with mobile washroom facility; new tennis court.

Executive Summary/Key Outcomes

The site is an existing 30 acre holiday park which is bound to the north by Stoke Road and to the east by Long Road. It is within the countryside area and lies on the western edge of the Greater Horseshoe Bat sustenance zone and is partially within a strategic highway for the Greater Horseshoe Bat. The boundary with South Hams District Council is approximately 270m to the south of the application site.

The application seeks consent for the addition of 58 holiday lodges on a 4.5 hectare area of the site to the south and east. The proposal includes associated access roads and parking for the lodges. It also includes the demolition of an existing toilet block which is to be replaced by a mobile washroom facility currently located elsewhere on the site and the addition of a tennis court. An orchard is proposed to the eastern most part of the site which is most prominent from wider views.

It is considered that the intensification of use of the holiday camp is compatible with its rural location. The site will not be highly visible from the wider area and the addition of the orchard will further minimise the visual impact of the proposal and reinforce the rural fringe of the site. Internally the character of the existing area will inevitably be altered by the addition of the lodges which will be permanent fixtures. However this impact can be minimised by revised landscaping which would act to visually break up the appearance of the additional lodges. The proposal is therefore deemed to comply with Policy C1 (Countryside and the Rural Economy) of the Torbay Local Plan 2012-2030.

The proposal is deemed to cater for the current demand for superior holiday accommodation within a site which has good quality facilities. The provision of improved tourist facilities will help attract new visitors which, it is considered, will in turn provide an economic benefit to Torbay. The proposal therefore complies with Policy TO1 of the Torbay Local Plan 2012-2030.

As the site lies on the western edge of the Greater Horseshoe bat sustenance zone and is partially within a strategic highway a HRA screening was undertaken. The result of this was that there is not likely to be a Significant Effect alone or in combination with other proposals or projects, on the Berry Head Component of the South Hams SAC. This conclusion is subject to the addition of appropriate conditions.

Recommendation

Conditional approval, subject the receipt of further information relating to drainage, highways and landscaping. Final drafting of conditions to be delegated to the Executive Head of Business Services.

Statutory Determination Period

The decision on this application was due on 23.02.2017. Due to the requirement for an HRA the proposal has exceeded this date. The applicant has agreed to an extension of time.

Site Details

The site, Whitehill Country Park, Stoke Road, Paignton, is a holiday park located within the designated countryside area. Whitehill Country Park lies on the western edge of the Greater Horseshoe Bat 'Sustenance Zone', and partly within a 'Strategic Flyway' which are strategic movement corridors for Greater Horseshoe bats from the South Hams SAC.

Whitehill Country Park currently has a licence for 66 mobile holiday units. In addition serviced camping pitches and camping pods are available. Reception and entertainment facilities including a shop, café, craft centre, bar and outdoor pool area are located near the entrance to the site.

The proposed application relates to a field to the east of the site adjacent to the boundary with Long Road. The application site area is 4.3 hectares.

The southernmost part of the application site is approximately 270m from the boundary with South Hams District Council.

Detailed Proposals

The application seeks permission for the construction of 58 additional holiday units on an existing campsite. The proposal includes associated engineering works to provide access roads and to level the locations of the new units according to the topography. This part of the site is currently used for camping for a 28 day period in each year which will be discontinued.

The holiday units consist of lodges 25 of which are 12m x 6m and 33 which are 12m x 3.6. Each lodge includes one parking space. A waste and recycling compound is provided and is to be screened by hedge planting.

The application also seeks consent for the replacement of an existing flat roof toilet block in the valley to the south of the site with a mobile washroom facility. The mobile toilet and washroom block is currently located elsewhere on the site.

A new tennis court is to be constructed on the unused and overgrown area to the south of the application site. The tennis court will be sited to avoid the root protection area of the existing trees in the hedgerow to the east of the court. It is to be surfaced with a proprietary green synthetic finish suitable for tennis and other ball sports.

The court will be surrounded with a green plastic coated chain link fence 2.7metres high. Fence posts will be of tubular section and finished with a polyester powder coat paint finish. This part of the site is situated in the valley and is not visible from the surrounding land.

The development would result in the addition of 3 full time equivalent staff.

An area of the site furthest to the east is to be planted as a cider apple orchard and additional hedgerows providing ecological benefits and aiding in screening the development.

Summary Of Consultation Responses

Natural England: Comments on HRA awaited.

Ecology Consultant: Mitigation measures will ensure that there are no impacts on the greater horseshoe bat commuting habitats around and across the proposed development site at Whitehills Country Park.

The various mitigation measures to ensure that adverse effects are avoided will be secured through conditions attached to any planning consent. It is therefore concluded that this proposal will not have an adverse effect on the integrity of the South Hams SAC.

Drainage Engineer: Additional information is required to provide clarification on some points. Once these have been answered satisfactorily planning permission can be granted with a pre-construction condition confirming that the additional infiltration testing will be undertaken and the detailed designs for all soakaways and swales is submitted showing that they have been designed in order that there is no 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.

Arboricultural Officer: The tree report accurately describes, species, sizes, quality and location of the trees/hedges/groups and study of the proposed layout indicates no significant trees are to be lost as part of the change of use.

The change of use of the site will inevitably lead to its intensification in terms of

impact upon view receptors which is sought to be addressed via the landscape proposals which is welcomed.

Study of the road layout against the contours and local topography indicates an opportunity to form a strong visual feature of an informal avenue of landscape scale trees as a staggered single row either side of the internal road from Stoke Road to the Eastern end of the site. This may be achieved by slight re-siting of units or planting in existing open spaces. This would add structure and rapid maturity of the site into the wider landscape complying with Policy C1 of the Torbay Local Plan 2012:2030 by sub dividing the visual massing into more discrete blocks of lessened landscape intrusion.

The scheme is suitable for approval on arboricultural merit subject to the following:

- Tree protection plan and any special methodology for construction adjacent to trees to be retained
- Detailed landscaping plan to include, but not be limited to, detailed watering prescription per tree type/size, tree pit design, staking (2 stakes and cross bar), mulching, tie adjustment, formative pruning and so on, with attention drawn to requirement for informal tree avenue of suitable species i.e. Oak, Beech or Lime
- Provision of a LEMP once item 2 is agreed.

Highways - no objection subject to the receipt of a revised travel plan and revisions to show the addition of a passing area along a section of the new access road and the addition of a turning head adjacent to the proposed orchard.

Green Infrastructure Coordinator - The application is accompanied by an EcIA comprising a desk study and site surveys including Extended Phase 1 Habitat, hedgerows, hazel dormouse, bat activity (transect and static detector) and badger.

As the site is located within the western edge of the Greater Horseshoe Bat (GHB) Sustenance Zone and within a Strategic Flyway (both associated with the South Hams Special Area of Conservation), Torbay Council will need to undertake a Habitats Regulations Assessment Screening to consider whether there will be any Likely Significant Effects on the SAC.

Notwithstanding the further information required prior to determination the application the following conditions should be secured:

- Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement
- Submission of a Landscape and Ecological Management Plan (LEMP)
- Full landscaping details, including details of the proposed orchard, to be submitted for approval.

Landscape Design Officer: The extent and magnitude of change resulting from the proposed development is likely to have a major adverse effect on landscape character. However, the proposed development is unlikely to be seen outside the

site area and this must be recognised in the judgement of the overall effects. The overall effects of the development are therefore assessed as minor adverse. Changes could be made to the design that could reduce the ill effects on internal character of the site and the following approaches could be considered:

- decrease in the number and density of the units;
- modify the distribution pattern such that density decreases with distance from the entrance;
- orientate the units such that they run parallel to contours, needing much less earth works;
- make the layouts less regimented and more irregular in form and orientation;
- adopt a different "camouflage strategy" - rather than dividing the plots with hedgebanks, set the whole area in to a (light) woodland;
- vary the type, size, colour, shape, roof materials and arrangement of the units to produce a less regimented pattern.

Environment Agency: No comment received.

Licensing: The layout of the caravans needs to be amended so that there is a distance of 5m between lodges and between lodges and hedges in order to comply with Torbay Council Licensing Standard Conditions for Static Holiday Caravan Sites.

South Hams District Council: No comment received.

Summary Of Representations

One letter of representation was received which relates to the development being out of character with the open countryside and inappropriate for this location.

Relevant Planning History

DE/2016/0143 - Enhancement of Whitehill Country Park and provision of new mobile holiday accommodation; the applicant was advised that the application was acceptable in principle 27.04.2016

P/2015/0698 - Access drive; Approved 19.11.2015

P/2010/1324 - Formation of six camping pods; Approved 31.01.2011

P/2005/2090 - Construction of roads; caravan bases to improve layout/accommodation of existing 66 approved static caravans and 11 months use; approved by DMC on 13.02.2006.

Key Issues/Material Considerations

The key issues in relation to the proposed development are the impact it would have on the character and appearance of the countryside area, tourism, ecology, highways, drainage and landscaping.

- Countryside area

The site is within a Countryside area therefore Policy C1 (Countryside and the rural economy) of the Torbay Local Plan 2012-2030 is relevant. In the countryside development will be resisted where it would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting. However the following forms of development are permitted by this policy:

- Development for touring caravans and tents;
- Tourist facilities appropriate to the rural setting;
- Development associated with outdoor sport and recreation appropriate in a rural area.

This policy also has regard to the need to protect, conserve/enhance the distinctive landscape characteristics and visual quality of a particular location, the suitability of development and the capacity of the countryside to accommodate change.

In essence the proposal falls within development that would be permitted in the countryside, subject to the impact on the character and setting of the area.

The proposal includes a landscaping scheme which has been developed to establish hedge planting at the entrance to Whitehill Country Park which will screen the car park, mobile holiday accommodation adjoining the entrance and the leisure complex.

To the east there is a farmstead of Grade II listed buildings at Yalberton Farm, from there and from Long Road, also to the east, the upper part of the open field known as 'Old Ground' (which is furthest to the east of the development site), is prominent on the skyline. It is proposed to screen the holiday lodges from this view by planting an orchard on this land. This will introduce a sustainable agricultural use on the land and preserve the rural view of the skyline from Yalberton Farm.

The site is well screened from Long Road to the north by existing Devon banks and established hedges. In recent years, the boundary hedges have been allowed to increase in height to improve screening of the site. It is considered therefore that the proposed development will not be highly visible from the adjoining roads and the development will have minimal visual impact from the northern and eastern boundaries.

The land to the south-west of Whitehill Country Park comprises of open farmland. With the closest properties being Higher Well Farm and Holiday Park Waddeton Road, approximately 1 mile to the south. From this distance it is deemed that views of the proposed development will not be significant in the character of the countryside. To the south-east of the site, views of Whitehill Country Park are screened by mature woodland which is protected by a TPO.

Within the application site the character is currently 'rolling farmland' set within a

combe with grassland to one side of the valley and woodland to the other. The proposed development would positively contribute to the landscape by adding characteristic hedgebanks, tree planting and an orchard.

However the change from seasonal camping to permanent structures is a marked change to the character of this part of the site. The use of tents is transitory in nature and cause little physical change to the land whereas the holiday homes would be permanent and present throughout the year. Inevitably this results in a significant change to the character of the area of land which is subject to this application.

A landscape scheme to subdivide the site to minimise the visual impact of development has been submitted. Devon hedge banks are proposed to subdivide the open site areas and will screen and contain the clusters of single storey mobile holiday accommodation. The external colour and cladding of the mobile holiday accommodation will be of a recessive colour, sympathetic to the rural surroundings.

Taking the comments from the Landscape Officer and Arboricultural Officer onboard it is clear that the additional lodges will be hidden from wider views into the site. However the internal impact of the additional lodges on the current character of the site could be significant. It is therefore considered that revisions to the layout and landscaping, including an informal avenue of landscape scale trees either side of the internal road (as advised by the Arboricultural Officer) and variations to the orientation, layout and the roof materials of the lodges (as advised by the Landscape Officer) would aid in subdividing their visual massing and reducing the impact on the visual character of the area.

The layout of the lodges will also require amending in order to ensure that there is a 5m distance between each lodge and between any tree/hedgerow and lodge in order to comply with Torbay Council Licensing Standard Conditions for Static Holiday Caravan Sites.

Subject to revisions to landscaping and layout, the proposal is deemed to comply with Policy C1 and the number of units it acceptable. The addition of the tennis court and the washroom are not deemed to have a detrimental impact on the character and appearance of the site or wider countryside area.

- Tourism

Policy TO1 (Tourism, events and culture) of the Torbay Local Plan 2012-2030 aims to enhance its role as a premier tourism destination. In order to do this tourist facilities and accommodation will require improvement and modernisation to attract new visitors, particularly overnight visitors and increase overall spend. The Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services supporting, in principle, the improvement of existing and provision of new tourist accommodation and attractions; subject to

other Policies.

The NPPF deals with tourism development in its rural policy paragraph 28 which notes:

To promote a strong rural economy, local and neighbourhood plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations.

The Local Plan advises that Torbay is seeing increased visitor numbers and value, lengthening of the tourism season, increased spend, increased occupancies and overnight stays, growth in overseas visitor numbers and new tourism related development.

This is backed up by visitor spend in Torbay which in 2011 was 8% higher than in 2006. Torbays' Tourism Strategy Turning the tide for tourism in Torbay, 2010-2015 states that in 2007 holiday parks in Paignton provided 5,800 of the total 18,500 bed spaces. Changing expectations mean an increasing number of visitors want to spend their holiday in good value, high quality modern accommodation.

The applicant wishes to cater for current trends in tourism, and to capitalise on the unique countryside setting of Whitehill Country Park. As previously stated a demand for superior holiday accommodation is apparent and recent years have seen a reduced demand for touring pitches.

It is considered that the proposed lodges provide an improved form of tourist accommodation within a site which has good quality facilities and a range of accommodation making good use of an area currently underutilised as a camping site.

The proposal provides ecological benefits for the area, is of satisfactory scale and design and is well screened from Long Road by the existing hedgerow/Devon bank.

The proposal is deemed to help deliver the key requirements of Policy TO1 and complies with para. 28 of the NPPF, by providing improvements to the facility and helping attract new visitors; thus providing an economic benefit to Torbay. It is therefore considered that the proposal is compliant with Policy TO1 of the Torbay Local Plan 2012-2030.

- Ecology

The site is located approximately 8km to the west of the South Hams Special Area of Conservation (SAC) (and Berryhead to Sharkham Point Site of Special Scientific Interest (SSSI) which is its component SSSI). Whitehill Country Park is situated on

the western edge of a Greater Horseshoe Bat (GHB) 'Sustenance Zone' and adjacent to a GHB 'Strategic Flyway' associated with the South Hams SAC flyway.

Therefore a Habitat Regulation Assessment (HRA) has been undertaken. The result of this was that, subject to appropriate conditions, the proposed development would not have an adverse impact on the greater horseshoe bat commuting habitats around and across the proposed development site at Whitehills Country Park.

As a result of the HRA on the site the following headline conditions have been requested:

- The submission of an integrated Landscape and Lighting Design Strategy
- The submission of a CEMP
- The submission of a LEMP
- The submission of a monitoring strategy to provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary.

The lodges have been sited to ensure that there is a minimum 10m buffer between holiday units and retained hedgerows in order to minimise potential lighting and disturbance impacts on commuting or foraging Greater Horseshoe Bats thereby creating a dark corridor. However in order for the hedgerows and woodland edge to provide functional greater horseshoe bat habitat, it will be necessary to demonstrate the extent of where light spillage of 0.5lux and further information to confirm this is required.

The addition of the lodges will result in the loss of habitat, including 4ha of amenity grassland and two 5m sections of hedgerow in order to create access points. In order to mitigate this and provide ecological enhancement, it is proposed to plant 840m of species-rich hedgerow, at least 30 native trees, 300m² of native scrub and at least 200 fruit trees to create 1.3ha of orchard.

In order to ensure the long term success and management of the newly created and retained habitats, details of a Landscape and Ecological Management Plan (LEMP) will be submitted to the Council for approval and will be adhered to in strict accordance with the approved details.

It is considered that the mitigation measures proposed result in the development maintaining and enhancing biodiversity on the site. Therefore the proposals is deemed to accord with Policy NC1 (Biodiversity and geodiversity), C1 (Countryside and the rural economy) and Policy C4 (Trees, hedgerows and natural landscape features)..

- Highways

Policy TA3 (Parking requirement) states that 1 parking space per chalet/lodge should be provided. The submitted layout plans confirm that this standard will be met.

Site levels have been carefully considered to afford suitable gradients on the access drives to ensure safe vehicle movements.

A revised/updated transport assessment has been requested as have revised plans to show the addition of a passing area along a section of the new access road and the addition of a turning head adjacent to the proposed orchard.

- **Drainage**

The site is within Floodzone 1 and the applicant is proposing to use soakaways and swales to deal with rain water run-off. Some additional clarification has been requested on these matters. Subject to the receipt of this information, it is considered that this method of drainage is acceptable; subject to the addition of conditions requiring the detailed designs for all soakaways and swales to be submitted showing that they have been designed in order that there is no 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.

- **Landscaping**

As the site is within the allocated countryside area a strong landscaping scheme is imperative to this application. As previously stated the addition of the orchard is welcomed and will minimise views of the lodges from outside of the camp. Similarly internal landscaping will break up the visual massing of the lodges in order to lessen the impact on the existing character of the application site, it is considered that this can be further improved and revised plans to show this in line with the consultation responses from the Landscape Officer and Arboricultural Officer have been requested.

S106

A contribution towards monitoring the holiday use of the units for a period of 5 years is required which equates to £1,440 based on 4 hours of monitoring per year.

Conclusions

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

The principle of the proposed development would be consistent with Policies C1 and TO1 of the Torbay Local Plan 2012-203. Subject to the receipt of additional information relating to drainage, highways and landscaping the proposal is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations, subject to the conditions itemised below;

- Tree protection plan and any special methodology for construction adjacent

- to trees to be retained
- Detailed landscaping plan to include, but not be limited to, detailed watering prescription per tree type/size, tree pit design, staking (2 stakes and cross bar), mulching, tie adjustment, formative pruning and so on, with attention drawn to requirement for informal tree avenue of suitable species i.e. Oak, Beech or Lime
- Landscaping to be implemented and retained
- Submission of a LEMP
- Submission of a CEMP
- Submission of an integrated Landscape and Lighting Design Strategy
- Submission of a monitoring strategy to provide early warning to bat commuting routes
- Clearance of any potential bird nesting habitat should only be undertaken outside of the bird nesting season (undertaken between September and end of February) or following confirmation immediately prior to clearance from a suitably qualified ecologist that no nesting birds are present. If a nest(s) is found, works will have to be delayed until young birds have fledged and the nest(s) is inactive
- Details of cycle store to be submitted for approval and then implemented
- Implementation of parking areas prior to occupation of chalets
- Implementation of bin store area prior to occupation of dwellings
- Details of all boundary treatments
- Pre-construction drainage condition confirming that the additional infiltration testing will be undertaken and the detailed designs for all soakaways and swales is submitted showing that they have been designed in order that there is no 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
- The approved accommodation shall be for holiday use only and not for permanent residential occupation
- The maximum number of 58 lodges shall be stationed on the application site at any one time and in accordance with the approved layout.

Relevant Policies

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Agenda Item 7

Application Number

P/2016/1372

Site Address

Devonshire Park (Formerly Nortel Site)
Proposed Unit C Shown On Plan 14290 007B
Land Off Brixham Road
Long Road Former Nortel Site
Paignton
TQ4 7BE

Case Officer

Mr Scott Jones

Ward

Blatchcombe

Description

Variation of condition P1, 34 and 35 of P/2014/0947(Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing ,open space and landscaping.) to vary Condition (P1) - Approved Plans to omit reference to the Masterplan, Condition (34) to vary the minimum unit size restriction for 1 unit and Condition (35) to clarify the restriction of concessions

Executive Summary/Key Outcomes

This application is for changes to the wording of three conditions attached to a recently approved outline consent granted under reference P/2014/0947 for mixed use (Business/Bulky Goods Retail and Residential) development on the old Nortel/Bookhams site adjacent to Long Road and Brixham Road, Paignton.

Permission P/2014/0947 granted outline consent for the demolition of buildings and mix use development comprising up to 255 dwellings, up to 5,571sqm of business and/or warehouse uses, up to 8,501sqm of (bulky goods) retail with up to 515sqm garden centre and up to 139sqm of café/restaurant use, along with related infrastructure, detailed consent for the access and all other matters reserved.

The decision to grant outline consent was finely balanced as the provision of the retail floor space was considered to have an adverse impact on the Paignton and Torquay town centres, and approaching a significant adverse impact, due to the poor health of the centres and their vulnerability to relatively small levels of impact. This context is relevant to the application before Members.

The application seeks to vary Condition P1 (Plans), Condition 34 (Minimum gross ground floor of retail units) and Condition 35 (concessions), as outlined below.

The application seeks to delete the reference to the previously submitted masterplan within the approved plans condition, citing that the plan was not meant to be approved within a condition that states in "complete accordance with" as it was only indicative.

The application seeks to amend the wording of Condition 34 that set a minimum ground floor area for all retail units. The revised wording seeks to permit one unit to be below the current minimum size of 929sqm. The application cites this is to meet the needs of a potential operator who wishes to create a mezzanine floor of 279sqm and sell goods which accords with the bulky goods use types approved.

The application seeks to amend the wording of Condition 35 that restricted concessions within the retail units. The revised wording seeks to clarify that the restriction relates to retail concessions within retail stores and does not preclude non-retail concessions such as cafés or restaurants within retail stores.

There are representations from South Devon College and Paignton Neighbourhood Forum citing concern on the removal of the masterplan unless other suitable development parameters are achieved in its place, and concerns on detailed layout matters expressed within an indicative plan submitted, the conflict of the small unit on the essence of the bulky goods use and the impact on town centres, and the conflict with the outline consent of permitting café type uses. There is also representation that appears to refer to issues more related to the outline consent rather than the amendments sought.

In regard to Condition P1 (approved plans) following discussions with the applicant there is agreement that the reference to the masterplan is retained within Condition P1 provided the wording gave clarity on it being indicative.

In regard to Condition 34 (minimum size) it is considered that there is presently insufficient evidence to determine that there is not a sequentially preferable alternative site for a retail unit with a ground floor size of 557sqm and capacity for a mezzanine of 279sqm, and/or other such evidence that demonstrates that there will be no significant adverse impact on the Paignton and Torquay town centres. This has been raised with the applicant and Members will be updated. In the absence of such evidence, or where the evidence fails to demonstrate that there is unlikely to be a significant adverse impact upon the Paignton and Torquay town centres, the application would fail to accord with Policy TC3 of the Torbay Local Plan.

Should the above be positively addressed officers recommend revised wording of condition 34 that permits one unit to have a total floor space of not less than 836sqm, which is 10% less than the established minimum ground floor space, and with a ground floor area no less than 550sqm, rather than the open wording suggested by the applicant. Under these parameters the exception unit will

more closely reflect the outline consent and would retain a more effective and flexible unit for the various bulky goods uses approved.

In regard to Condition 35 (concessions) it is considered that the provision of an ancillary café/restaurant use within retail units is acceptable, subject to a reasonable size restriction in order to ensure that the use is an incidental one to the bulky goods retail use and does not conflict with the overriding principles of the outline consent. It is proposed to add a maximum floor area for the ancillary café/restaurant use to the open wording suggested by the applicant.

Recommendation

Approval; Subject to;

- i) The receipt of additional evidence which demonstrates that there are no sequentially preferable alternative sites for a retail unit of 557sqm ground floor area (which can also accommodate additional floorspace of 279sqm) and/or such other evidence that demonstrates that there will be no significant adverse impact upon Paignton and Torquay town centres, to the satisfaction of Officers, prior to the 23.03.2017 unless an extension of time has been agreed with the applicant. In the absence of satisfactory information, or where Officers conclude that such evidence fails to demonstrate that a significant adverse impact is unlikely then the application to amend condition 34 be refused, as the proposals are contrary to Policy TC3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF (Paras 24 and 27).
- ii) Revised wording as suggested within this report to:
 - a) retain a reference to the masterplan within Condition P1;
 - b) permit the provision of one retail unit with a gross ground floor area of less than 929sqm but restrict this one unit to a total floor area no less than 836sqm and including gross ground floor area of no less than 550sqm, and;
 - c) permit a non-retail concession within retail units, solely for A3 café/restaurant use, where the floorspace of the concession does not exceed 10% of the gross ground floor area of the unit.
- iii) All previously attached conditions, and
- iv) Completion of a deed of variation to the original S106 legal agreement linking the amendment to the original agreement, to be completed by 23.03.2017, or within three months of the date of this meeting where an extension of time has been agreed with the applicant. In the absence of the signed deed the application to be refused.

Statutory Determination Period

The determination date for this application is the 23rd March 2017.

Site Details

The site comprises the former Nortel/Bookham site, now known as Devonshire Park, to the west of Brixham Road on the outskirts of Paignton. The site area is 9.76ha. The site is a former industrial site that primarily manufactured electronics and closed in 2006. Following demolition of most of the buildings in recent years, the site is largely derelict.

The site is bounded by housing, sports pitches and Western Business Park to the north, Brixham Road to the east, Long Road to the south and South Devon College to the west.

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams SAC at Berry Head. The topography of the site rises by about 20 metres from south to north. It is within Flood Zone 1 and a Critical Drainage Area. Parts of the site particularly to the north have become overgrown. There are scattered lines of trees on and around the boundaries of the site. Parts of the site are likely to be contaminated from the historic uses. The parts with most risk are to the south and particularly to the west, with lower risk to the north.

Detailed Proposals

The application seeks to vary three conditions, as outlined below.

The application seeks to delete the reference to the previously submitted masterplan within the approved plans condition (Condition P1), citing that the plan was not meant to be approved within a condition that states in "complete accordance with", as it was only indicative.

The application seeks to amend the wording of Condition 34 that set a minimum ground floor area for all retail units. The revised wording seeks to permit one unit to be below the current minimum size of 929sqm. The application cites this is to meet the needs of a potential operator.

The application seeks to amend the wording of Condition 35 that restricted concessions within the retail units. The revised wording seeks to clarify that this relates to retail concessions within retail stores and does not preclude non-retail concessions such as cafés or restaurants.

Summary Of Consultation Responses

Strategy and Project Officer: Concern has been raised that there is presently insufficient evidence to determine that there is not a sequentially preferable alternative site for a retail unit with a ground floor size of 557sqm and/or other such evidence that demonstrates that there will be no significant adverse impact on the Paignton and Torquay town centres. In the absence of such evidence the

application to amend condition 34 fails to accord with Policy TC3 of the Torbay Local Plan and it is recommended that the applicant seeks to positively address this.

Condition 34 - Unit size - The condition was imposed to minimise the creation of small units that could replicate town centre shops. Although this change alone appears relatively minor previous retail advice did conclude that Paignton and Torquay town centres are susceptible to relatively small impacts. The proposal should be appropriately evidenced. If it is found to be acceptable a minimum floor area should be considered

Condition 35 - Concessions - No objections to relaxing condition 35 to allow for ancillary uses such as a coffee shop/cafe. An amended condition should be appropriately worded to ensure that such a use is subservient to the overall retail use, i.e. not internally subdivided. A maximum floorspace for cafes etc. is supported to ensure subservience and ensure that the bulk of uses remain retail as allowed by condition 32.

Design Consultant: In the absence of parameter plans the reference to the masterplan is the only indicative guiding principle. It should be retained or replaced with appropriate parameter plans that offer guiding principles.

Legal Officer: Condition P1: There is a relevant judgment (Moorland v West Wiltshire 2006) that indicates that an indicative masterplan, whether "approved" or not, is intended to illustrate or indicate something and informed the LPA's decision to grant outline consent. Recommends refusal of the removal of the reference to the masterplan unless an acceptable replacement is submitted.

Condition 34: The condition was imposed to protect the vitality and viability of Paignton and Torquay Town Centres (where there are sufficient numbers of small units). The wording suggested could result in a very small unit (no lower cap). It is a planning judgment whether this is acceptable.

Condition 35: Consideration to controlling parameters such as size, access, opening hours, and possibly expressly permit an A3 café concession. It is a planning judgment whether this is acceptable.

Summary Of Representations:

There are representations from South Devon College and Paignton Neighbourhood Forum with fundamental concerns on the removal of the masterplan, unless other suitable development parameters are achieved in its place, and concerns on detailed layout matters expressed within an indicative plan, the conflict of the small unit on the essence of the bulky goods use and the impact of a small unit on town centres, and the conflict with the outline permission of permitting café type uses. There is also representation that appears to refer to issues more related to the outline consent rather than the

amendments sought.

Relevant Planning History:

The key relevant planning history is the parent outline consent P/2014/0947:

Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and/or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping.

Approved 22.03.2016 (Subject to a legal agreement and conditions).

Key issues/material considerations:

The key issues are the whether the proposed changes are acceptable in terms of delivering the outline consent having due regard to all relevant material considerations and planning policy.

The removal of the masterplan from Condition P1

The application seeks to delete the reference to the previously submitted masterplan within the approved plans condition (Condition P1).

The submitted information cites that the plan was not meant to be approved within a condition that states in "complete accordance with", as it was only indicative, and that Reserved Matters will set the detailed layout.

The masterplan acts as the only formal reference on the Decision Notice to a guiding principle for development. It presents two clear character zones in terms of residential to the north and the business and retail uses to the south, along with general principles for the form of development within these zones. Its presents a plausible layout for the provision of the quantum of development approved and it importantly informed the decision of the Authority at outline stage.

There are representations from South Devon College and Paignton Neighbourhood Forum with concern over the removal of the masterplan, unless other suitable development parameters are achieved in its place,

The masterplan informed the decision of the Authority at outline stage. In terms of planning merit it is not considered appropriate to simply discard reference to this document unless a suitable replacement is proposed in its place.

Having discussed the matter with the applicant's agent there is agreement

towards the retention of a reference to the masterplan within the condition, provided that some clarity could be provided that detaches the illustrative plan from the wording "carried out in complete accordance with", which is the point of concern.

Revised wording is proposed within this report that principally creates a sub-list below the detailed access plans that states that the development shall accord with the guiding principles of the indicative masterplan hereby approved.

Members are recommended to support the revised wording that retains a reference to the illustrative masterplan as a guiding principles document, as this would not demonstrably alter the outline consent, in accordance with Policies DE1, DE3 and DE4 of the Torbay Local Plan 2012-2030.

The exception of one retail unit to the minimum ground floor area restriction (amendment to Condition 34)

The primary consideration is whether the proposal would have a significant adverse impact upon Paignton and Torquay town centres.

The NPPF provides clear advice that proposals with the potential to generate a significant adverse impact upon town centres should be refused planning permission (Para 27). It also provides clear advice that that planning applications for town centre uses that are not in an existing centre should be sequentially tested (Para 24).

Where the impact is adverse but not significant other benefits of the development, such as regenerating a derelict brownfield site, can be weighed against the harm to town centres when determining the application.

Only where it is demonstrated that the proposal is unlikely to have a significant adverse impact on the town centres, then secondary considerations are relevant, such as whether the proposal provides an adequate unit for the uses approved in the outline permission, and whether it is likely that such a unit could sit comfortably within a forthcoming detailed Reserved Matters application.

Primary consideration: Is there likely to be a significant adverse impact upon Paignton and Torquay town centres?

The decision to grant outline consent under planning reference P/2014/0947 was finely balanced, as the provision of the retail floor space was considered to have an adverse impact on the Paignton and Torquay town centres, and near to a significant adverse impact, due to the poor health of the centres and their vulnerability to relatively small levels of impact.

During consideration of the outline consent the Council's retail consultant raised concern on the potential for a significant adverse impact on Paignton and Torquay town centres. The parameters for the retail element were subsequently

evolved and ultimately measures were identified to try and reduce the likely trading overlap between the comparison goods sectors to prevent a significant adverse impact.

Subsequently the Council's retail advice concluded that the revisions including terms of the range of goods that could be sold would reduce the trading overlap and in turn reduce the financial impact on these centres. It was however concluded that although the restriction in goods may reduce the scale of risk regarding the significant adverse nature of any impact, the scale could remain significantly adverse as both centres are susceptible to relatively small levels of impact.

Outline permission was ultimately granted which was likely to have an adverse impact, but not a significant adverse impact, on the Paignton and Torquay town centres. The outline consent was subject to a number of conditions, suggested by the Council's retail advisor, to limit the risk of a significant adverse impact on the two town centres, pertaining to the range of goods to be sold, concessions, maximum floorspace, and a minimum unit size at ground floor level.

The current application seeks to introduce an "exception" unit that is not bound by the by the minimum gross ground floor area restriction of 929sqm. The suggested wording does not propose a minimum gross ground floor area however the supporting information indicate the "exception" unit to have a ground floor area of 557sqm and a mezzanine area of 279sqm. This would present a ground floor area of the unit being 60% of the prescribed minimum, notwithstanding that the gross floor area would be 836sqm, which would be only 10% below the size minimum floor area of unit that should be provided under the outline condition (albeit over the ground floor only).

Policy TC3 of the Torbay Local Plan 2012-2030 provides policy guidance in regard to new out-of-centre retail development, citing that proposals must meet 3 criteria, these being:

1. Proposals should not cause any unacceptable impacts either individually or cumulatively on the vitality and viability of existing or planned centres;
2. No other town centre or edge of centre site is suitable, available or viable; and
3. Development would improve the spatial distribution of accessible facilities.

It is clear that the outline consent was granted on balance with restrictive conditions to reduce the risk of a significant adverse impact on Paignton and Torquay town centres, which included a minimum gross ground floor area for all retail units as part of the package of conditions relating to the retail element of the scheme. As there was clearly considerable concern over the level of the likely adverse impact any relaxation of the restrictive conditions should be duly considered due to the previously cited susceptibility of Torquay and Paignton

town centres to relatively small levels of impact.

On the information provided the impact of permitting the exception unit is unknown and in the absence of due assessment, including the availability of suitable and viable town centre or edge of centre sites, the proposal does not satisfy the tests outlined within Policy TC3 of the Torbay Local Plan 2012-2030.

It is Officer's recommendation that additional information is sought in terms of a proportionate retail impact assessment and sequential test to consider the retail impact and identify whether there are town centre or edge of centre sites where a unit with a gross floor area of 557sqm and capacity to increase the floor area by a further 279sqm is available, suitable and viable. Officers have requested that the applicant seeks to positively address the absence of this information and Members will be updated.

Should the primary matter above be positively resolved and only where it is concluded, informed by a retail impact assessment and sequential test, that there are no sequentially preferable sites and that the proposal is unlikely to have a significant adverse impact upon Paignton and Torquay town centres there are secondary considerations, which are considered below.

Secondary considerations: Is a unit with a ground floor area of 557sqm more widely compliant with the outline consent?

The outline permission granted consent for the sale of a number of quasi bulky goods items. There is no upper limit for any one unit but, as previously stated, there is a minimum ground floor area of 929sqm for all retail units.

In terms of broad character this could present a varying size of units sitting side by side. The provision of one unit with a ground floor area of around 60% of neighbouring units is unlikely to present conflict with design aspirations outlined within Policy DE1, as the proposals could indeed present a number of different sized units side by side.

In terms of use the outline consent permits the sale of a number of quasi bulky goods items. These range from DIY and furniture to somewhat less bulky uses, such as pets and pet products and camping equipment. The revised wording proposed by the applicant does not establish a minimum floor area for the exception unit. This could result in a small or very small unit and one that may preclude flexibility in terms of being adequate and adaptable for the broad spectrum of "bulky goods" uses. The applicants' indicative plans indicate the "exception" unit to have a ground floor area of 557sqm and a mezzanine area of 279sqm. This would present a total floor area of 836sqm, which would be 10% below the size minimum floor area of unit that could be provided under the outline condition (albeit over the ground floor only). Within these parameters the retail unit would remain large and would be adequate in terms of providing flexibility to provide suitable capacity for a variety of bulky goods retailers to

operate from.

Considering the context in order to preclude the provision of a small unit that would be out of character with the bulky goods retail consent and also potentially provide a unit that is less flexible and potentially inadequate for certain bulky goods, it recommended that the proposed wording is revised with a minimum floor area introduced.

To conclude Members are recommended to support the Officer recommendation to require additional information in regard to retail impact and the availability, suitability and viability of sequentially preferable sites, in order to duly consider whether the proposal is likely to have a significant adverse impact upon the Paignton and Torquay towns centres.

Where it is concluded that that proposal may have a significant adverse impact Officers recommend that the proposed amendment Condition 34 is refused in accordance with Policy TC3 of the Torbay Local Plan 2012-2030.

Where it is concluded that the proposal is unlikely to have a significant adverse impact Officers recommended approval of the revised wording that allows one unit to have a gross ground floor area of not less than 550sqm and with a total internal floor area no less than 836sqm, so as to retain the exception unit at an appropriate scale for bulky goods in terms of total floor space, not demonstrably reduced from the outline consent, in accordance with policy DE1 of the Torbay Local Plan 2012-2030.

The permitting of café/restaurant concessions within retail units (amendment to Condition 35)

In regard to Condition 35 (concessions) it is considered that the provision of ancillary café/restaurant concessions within retail units is reasonable as part of a dominant retail offer.

It is necessary to ensure that the condition accords with the outline consent and measures are considered to ensure that non-retail concessions do not demonstrably impact the retail capacity or retail character of the bulky goods operations.

It is considered necessary to amend the applicant's suggested wording to ensure that there is no demonstrable loss of bulky goods retail space and that non-retail concessions are truly ancillary elements that are secondary to the primary retail use.

It is considered reasonable to allow a café/restaurant concession within retail units as such a use can be supportive of the retail offer in terms of providing food and refreshment for shoppers. Other non-retail concession may be at odds with the outline consent and hence it is recommended that a revised wording

expressively permits A3 café/restaurant concessions and no other.

It is also considered that in order to retain the primacy of the retail use that there is a maximum floor area for a non-retail concession. It is considered reasonable to permit Café/Restaurant concessions within units where the floor area of such use is no greater than 10% of the gross floor area of the unit at ground level.

Members are recommended to support the revised wording that for the avoidance of doubt permits only café/restaurant concessions and at a size that is no greater than 10% of the gross ground floor area of the host unit. In the context the amendment as worded would not demonstrably alter the outline consent or impact Town Centres, in accordance with Policies TC1, TC2 and DE1 of the Torbay Local plan 2012-2030.

S106/CIL

The amendments to the wording of the conditions do not alter the outcome of the previous viability assessment and secured obligations package within the s106 legal agreement.

The existing Section 106 agreement will need to be tied to the new application through a deed of variation though and this should be completed prior to the application formal determination.

Conclusions

The recommendation is to retain the reference to the masterplan within Condition P1 with wording that clarifies that it is an illustrative guiding document. There will be no demonstrable impact resulting from this amended wording.

The recommendation is to support the Officer recommendation for additional information in regard to retail impact and the availability, suitability and viability of sequentially preferable sites, in order to duly consider whether the proposal is likely to have a significant adverse impact upon the Paignton and Torquay town centres. Where it is concluded that that proposal may have a significant adverse impact Officers recommend that the application be refused in accordance with Policy TC3 of the Torbay Local Plan 2012-2030. Where it is concluded that the proposal is unlikely to have a significant adverse impact Officers recommended to approve the revised wording that allows one unit to have a gross ground floor area of not less than 550sqm and with a total floor area no less than 836sqm, so as to retain the exception unit at an appropriate scale for bulky goods in terms of total floor space, not demonstrably reduced from the outline consent, in accordance with policy DE1 of the Torbay Local Plan 2012-2030.

The recommendation is to amend condition 35 to allow a single A3 café/restaurant concession in each unit rather than permit all concessions. That a maximum size restriction is included in condition 35 in order to limit the scale of A3 café/restaurant operations relative to any unit, and protect the primacy of the

retail use in accordance with the outline consent. It is recommended that the only concessions which shall be permitted are A3 Café/Restaurant use and that such uses shall not exceed 10% of the sales area at gross ground floor area of the unit in question.

Revised wording proposed:

P1. The development hereby permitted shall be carried out in complete accordance with the approved plans listed below:

B14153 003 - (Version - Rev A) -

Date on plan: 26/01/2015 - Proposed Layout received 26.01.2015

B14153 003 T - (Version - swept Path Analysis) -

Date on plan: 24/01/2014 - Proposed Layout received 26.01.2015

1449-PL-006A -

Date on plan: 01/07/2014 - OS Map/Site Location received 22.09.2014

B14153-001 - (Version - Retail Access) -

Date on plan: 09/07/2014 - Proposed Layout received 22.09.2014

~~1449-PL-001 - (Version - REV A -Masterplan) -~~

~~Date on plan: 18/09/2014 - Proposed Layout received 22.09.2014~~

1449-PL-011 - (Version - A (Pedestrian Link)) -

Date on plan: 29/09/2014 - Proposed Layout received 08.10.2014

B14153-002 - (Version - Rev A) -

Date on plan: 06/02/2015 - Proposed Layout received 24.02.2015

B14153 004 - (Version - P) -

Date on plan: 30/01/2015 - Proposed Layout received 03.02.2015

B14153 005_T -

Date on plan: 30/01/2015 - Proposed Layout received 03.02.2015

The development shall accord with the guiding principles of the indicative masterplan listed below:

1449-PL-001 - (Version - REV A -Masterplan) -

Date on plan: 18/09/2014 - Proposed Layout received 22.09.2014

Reason: For the avoidance of doubt and to ensure a satisfactory completion of development.

34. With the exception of no more than one retail unit which shall have a minimum gross floor area of not less than 836sqm of which no less than 550sqm shall be at ground floor level, the minimum gross floor area at ground floor level of any retail unit formed from the retail floorspace (Use Class A1) hereby permitted shall be 929sqm and the retail units shall not be sub-divided into smaller retail units.

Reason: For the avoidance of doubt and to protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in

accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

35. Any retail unit formed from the retail floorspace (Use Classes A1) hereby permitted and the garden centre shall be used by a single **retail** operator and shall not include any independently operated **retail** concessions, unless they are reasonably related to the goods sold by the unit as permitted by condition 32.

For the avoidance of doubt this does not preclude the provision of an A3 Café/Restaurant concession within each retail unit provided that the area occupied by the concession is no greater than 10% of the sales floor area of the unit at ground floor.

Reason: The condition is required to protect the vitality and viability of Paignton and Torquay Town Centres and other nearby centres in accordance with Policies TC1 and TC3 of the Adopted Torbay Local Plan - A landscape for success 2012-2030, and paragraphs 24 and 27 of the NPPF.

Relevant Policies

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Application Number

P/2017/0121

Site Address

Myplace, Parkfield
Colin Road
Paignton
TQ3 2NR

Case Officer

Mr Alexis Moran

Ward

Preston

Description

Relocation of Torbay School to MyPlace, Parkfield. Alterations to MyPlace, Parkfield and construction of new single storey extension for Torbay School

Executive Summary/Key Outcomes

The site, MyPlace, Parkfield, is a modern lottery funded flagship youth facility constructed in 2010 and operated by Torbay Council Youth Services. The MyPlace building was constructed on the site of the former Council nurseries to the north and west of Parkfield House.

The proposal seeks consent to relocate Torbay School to the MyPlace building. The new school would provide places for 64 students with statements of need classified as emotional, behavioural disabilities and support predominantly young males between the ages of 11-16.

In order to meet the required educational and accommodation standards permission is also sought for the addition of two single storey extensions to the east elevation of the MyPlace building with a courtyard between. The development area is currently in use as a service yard for the Council and includes a number of single storey buildings.

The application is a revised scheme to that which was brought to the DMC on 12.12.2016. The previous application ref: P/2016/1159 had an officer recommendation of approval however Members did not consider the application acceptable and resolved to refuse it. The decision on this application has not yet been issued. The aim of the revised scheme is to address and overcome the issues raised by DMC.

The following points summarise the main design changes, other alterations to the scheme are summarised in section 5 of this report:

- Minibus parking relocated to minimise impact on neighbours
- Additional planting and green buffer space introduced to maintain separation between school and neighbours
- Student entrance relocated to avoid disruption to neighbours
- Front elevation redesigned to provide visual separation between existing

building and proposed extension.

As with the previous scheme the key issues relate to, the principle of the MyPlace building being used as a school, the impact on the amenity of adjoining occupiers, the highways impact and flood risk.

Planning permission is not required for a change of use of a building in leisure use (Class D2) to a state funded school, subject to the LPA determining whether prior approval is required in respect of transport and highways, noise and contamination.

Torbay School is a state funded school and therefore the principle of the change of use of the MyPlace building would be considered acceptable, subject to the Council not objecting to the scheme on the above three points.

In this instance it is necessary to extend the original building in order to facilitate the school and therefore the prior approval process is not available. This proposal must be considered against the relevant planning policies in the Local Plan. It is however noted that the broad principle of the change of use of the existing building can be undertaken as a permitted development and this should be given consideration in determining the application.

This scheme provides the entrance for pupils on a new, stronger, north elevation and thus away from the properties to the east. This however requires the single storey extension to the north to protrude by a further 1.2m to the east towards the boundary of the site with no. 8 Marine Park. The majority of this extension is adjacent to the car parking area to the rear of Colin Road and the pitched roof garage of no. 8 Marine Park. The southern corner of this extension will be within 7 metres of the side elevation of no. 8 Marine Park which has secondary windows above ground floor level. In an urban environment a distance of 7 metres between side elevations is not uncommon. Due to the single storey nature of the proposed extension it is not considered that overlooking will be a significant issue, the scale of the extension would not result in the development being overbearing on the residents of 8 Marine Park.

It is considered that as the proposed extensions are of a scale which would not have an overbearing or overdominant impact on the character of the original property or adjoining properties. Given the single storey nature of the proposed extensions and the existing and proposed boundary treatment and differences in levels, it is not considered that the proposal would result in significant issues arising from overlooking.

There will be no change to the existing BMX track or the skate park or the public right of way across the site which will be maintained as existing. The existing youth facilities will continue to be available for the present users outside of school hours (09:15-15:00), at weekends and during school holidays and in accordance

with an agreed timetable. Some of the facilities in the proposed school extension will be available to the community and youth services outside of school hours as soon as the school is open. During the construction phase part of the existing building to the south will remain open for youth services.

The proposed extensions would make effective use of this site which is currently used as a service yard. Improvements have been made to the entrance elevation to create a stronger feel of legibility and overall the proposal is considered to be a good quality development. It is deemed to be appropriate for conditional approval.

Recommendation

Conditional approval subject the receipt of further information relating to drainage, final drafting of conditions to be delegated to the Executive Head of Business Services.

Statutory Determination Period

The target date for determination of this application is 10.05.2017.

Site Details

The site, MyPlace, Parkfield, is a modern lottery funded flagship youth facility constructed in 2010, and operated by Torbay Council Youth Services. The MyPlace building was constructed on the site of the former Council nurseries to the north and west of Parkfield House.

The site is situated to the north of the Grade II Listed Building of Parkfield. There is a Grade II Listed folly within the application site to the south of the proposed development. To the west are properties fronting Marine Drive and Marine Park and to the north are properties fronting Colin Road. Colin Road provides access to the northern boundary through the Council car park.

The railway line is approximately 75 metres to the west. A public right of way crosses the site from north to south. The application site covers an area of 0.49 hectares with the wider site in the ownership of Torbay Council covering 3.5-4 hectares. The wider area is in mixed use predominantly comprising residential properties and hotel uses.

The youth facility comprises a national standard BMX track, skate park and the MyPlace, Parkfield building which accommodates a multi-purpose sports hall, theatre or music venue, climbing facilities, leisure facilities, meeting rooms, recording studio and IT suite.

In the Torbay Local Plan 2012-2030 the southernmost part of the site is shown as being within the Polsham Conservation Area. The site is also shown as being within the Core Tourism Investment Area.

Detailed Proposals

It is proposed to relocate Torbay School to the MyPlace building. Torbay school is a special school for students with statements of need classified as emotional, behavioural disabilities and supports predominantly young males between the ages of 11-16. The school would provide 64 spaces with 46 full time-staff and 12 part-time staff.

In order to meet the required educational and accommodation standards permission is sought for the addition of two large single storey extensions to the east elevation of the MySpace building with a courtyard between. The courtyard between the north and south extensions will form a playground to the school. A covered walkway will be provided between the two classroom extensions.

A vehicular turning circle is to be constructed at the north end of the site to provide a taxi and mini-bus drop off point in proximity to the entrance. The turning circle will avoid the need for vehicles to reverse. The drop-off point will be managed by Torbay School to ensure that students enter the school safely and to prevent truancy.

Previously concerns had been raised with regards to the impact of the mini-bus parking and its proximity to the site boundary and adjacent properties on Colin Road and Marine Park. As a result of this the minibus parking area has been relocated away from the side boundary to a position in front of the sports hall to mitigate impact on neighbours. Improved boundary fencing and landscaping in this area is also proposed.

The entrance to the school will be to the north of the building in proximity to the vehicle drop-off point.

The north extension will accommodate the main entrance, administration and meeting room facilities. Three classrooms are to be provided on the south side of the north wing accessed from the central courtyard. These classrooms will be set to correspond with the external ground level of the courtyard. The extension would project a maximum of 29m from the rear of the original building, would be 22m wide and have a height of 6m.

This scheme provides a student entrance on the north elevation through the school and thus away from the properties to the east. This however requires the single storey extension to the north to protrude by a further 1.2m to the east towards no. 8 Marine Park in comparison with the previous application under reference P/2016/1159.

The south extension comprises of a single storey building centred on the existing access to the MySpace building. This extension is to be used to provide science and vocational classrooms the latter of which opens out into the external areas.

This extension is to protrude by a maximum of 23m from the main building and be 22m in width with a height of 6m from ground level.

The playground will be separated from the external access corridor serving the classrooms in the north extension and provides a covered link to the south extension and MyPlace. The playground is to be treated as a multi use games area for sport, complete with perimeter fencing. The previously proposed net over the playground has been deleted from the current proposal.

The eastern boundary of the playground is separated from Marine Park by an existing retaining wall and 3.0 metre high timber fence to the existing service yard.

The existing sports hall is to be converted to a multi-use space. This will maintain the function of the existing sports hall and allow part of the space to be used as a dining hall by Torbay School. A temporary removable screen with a high level curtain division is to be provided to allow the sports hall to function within a smaller area while the remainder of the hall is used as a dining hall. There is a dedicated storage area included on the layout to accommodate dining hall furniture when not in use. Dining furniture would be erected and removed daily over the lunch period.

The existing building will be shared between Torbay School and the Youth Trust in accordance with an agreed timetable.

There will be no change to the existing BMX track or the skate park and the external area to the west of the school. The public right of way across the site will be maintained as existing.

The existing pedestrian access to the MyPlace building will be repositioned to form a new entrance to the youth meeting room. The existing sliding entrance door to MyPlace, will be replaced with a double entrance door to provide controlled access to the sports hall for events outside school hours and to provide a fire exit. The existing entrance to the climbing wall is to be utilised to provide an independent access.

Vehicular access to Torbay School will be via Colin Road and through the public car park. The existing barrier gate to the site entrance will remain, and this will be managed by Torbay School to be open at the start and finish of the school day.

The proposal also includes relocating the existing electrical sub-station from the east of the site to the north of the site. This is not considered to be contentious.

Summary Of Consultation Responses

Urban Design Consultant: Comments awaited.

Strategic Transport: NPPF 72 places great weight on the provision of school places. There is a pressing need for additional school places in Paignton.

A number of points had been made in relation to application ref: P/2016/1159 dated 30 November 2016, which remain relevant. It is welcomed that several of the comments in my earlier email have been taken on board in the updated Transport Statement and Travel Plan.

It is noted that the beach huts may need to be removed from the car park, to ensure that adequate parking for staff and visitors can be provided and reduce the risk of overspill onto Colin Road. The updated Transport Statement notes that Colin Road Car Park has 87 spaces, of which weekday occupancy peaks at about 25% (table 3.5) i.e. 22 spaces taken and 65 free. The Transport Statement indicates 30 staff travel by car, plus visitors and offsite staff. In addition 6 students travel by car and it is proposed to make 8 spaces available for dropping-off and picking-up. Hypothetically this leaves a capacity of 27 spaces for other purposes (i.e. beach hut storage). On this basis it would appear unnecessary to insist on a condition requiring the removal of beach huts, so long as they take no more than 20 spaces (i.e. leaving a buffer of 7 spaces above the usage noted above). In the event of conflicts arising over parking, the Council/TDA control the use of the car park and can secure the removal of beach huts.

It is in any event desirable to achieve a higher take up of sustainable transport modes by staff (to 70% non car use) and to maintain the already high take up of non-car transport by students. The Travel Plan also identifies measures to avoid conflict over on-street parking.

It is understood that a painted line demarcation will provide separation of pedestrians and vehicles using the vehicular access.

The supporting information deals with the specific relocation of the Torbay School from the current location in Torbay Road. This generates less traffic than a different type of school e.g. a primary school or other Class D1 use. In addition it complements the other activities at Parkfield which largely operate outside school hours, thereby diffusing the traffic impact as well as providing a dual use facility with community benefits. Since a different proposal would need to be considered in terms of levels and times of traffic generation, I would ask that any permission is made specific to the scale and nature of the school set out in the submitted details (i.e. not an open D1 consent).

Police Liaison Officer: No objection.

Senior Heritage and Design Officer: No objection, the proposed extensions are not considered to impact on the setting of the listed garden room or Parkfield House, both to the south of the site.

Environment Agency: No objection.

Natural England: No objection.

National Trust: No objection.

Drainage: Requests further information from the hydraulic modelling and confirmation of the discharge rate to the watercourse.

Arboricultural Officer: Comments awaited.

Greenspace Coordinator: The Preliminary Ecological Appraisal is considered to be a fair assessment of the ecological impacts of the proposed development. Recommends the following conditions be imposed:

- Development should be undertaken in strict accordance with the Conservation Action Statement
- the avoidance and mitigation measures set out in the Conservation Action Statement to be included in any Construction Method Statement
- the compensation and enhancement measures set out in the Conservation Action Statement to be reflected on a landscape plan.

The inclusion of a MUGA is welcomed. The possibility of this being available for community use/use by the Youth Trust during evenings, weekends and holidays should be explored and, if this is possible, secured by condition.

Summary Of Representations

A total of 6 objections have been received in relation to this application, the main points raised in these are:

- Loss of facilities
- Noise
- Impact on local area
- Crime
- Impact on young people
- Inappropriate use as a school
- Loss of privacy
- Impact on tourism uses.

Relevant Planning History

P/2016/1159 - Alterations and construction of two single storey extensions with courtyard between. Relocation of school; DMC resolved to refuse this application on 12.12.2016 - decision pending

P/2010/1308 - Revised siting of BMX track and omit proposed on site parking area due to discovered badger setts; approved 14.06.2011

P/2010/0155 - Change of use of existing folly from garden storage to skatepark

kiosk and first floor office, adjustment and widening of exit pillars onto Lower Polsham Road from approved site; approved 14.06.2010

P/2009/0983 - Demolish nursery buildings. Replace with new build 'My Place' building containing indoor sports hall, associated changing and toilet facilities, cafe/internet areas, recording and sensory rooms. Outdoor facilities to include BMX and skate board tracks, on site car parking and landscaping. Renovation and change of use to Parkfield House from Council offices to 30 bed youth hostel for new 'My Place' building. Landscaping to existing grounds; approved 26.11.2009

Key Issues/Material Considerations

The key issues relate to, the principle of the MyPlace building being used as a school, the impact on the amenity of adjoining occupiers, the highways impact and flood risk.

1. The principle of the MyPlace building being used as a school

Planning permission is not required for a change of use of a building in leisure use (Class D2) to a state funded school, subject to the LPA determining whether prior approval is required in respect of transport and highways, noise and contamination.

In this case as it is necessary to extend the original building in order to facilitate the school the prior approval procedure could not be used. Therefore the proposal must be considered against the relevant planning policies in the local plan. However the broad principle that the change of use of the existing building could be undertaken as permitted development is a material consideration in the determination of the application.

The building is located in an area where there is already activity associated with the car park, proximity to the sea front and commercial properties in Colin Road, and Marine Drive. Therefore the additional activity and trips generated by the change of use to a school would have a limited effect on the character of the area. The school use would occur only during daytime hours which means there would be no impact during quieter night time periods. In comparison with the existing use of the building for leisure purposes the level of activity and noise generated by the school is unlikely to be significantly greater.

The site is within a Core Tourism Investment Area therefore Policy TO1 (Tourism, events and culture) must be considered. Within these areas the promotion and enhancement of tourism activities and facilities is encouraged. The Policy seeks improvements of existing and provision of new tourist accommodation and attractions in areas which are seen as the main focus for investment in tourism.

The area is close to the seafront and would benefit from retaining a tourism

related use. The application states that the existing facilities will remain available for the present users outside of school hours, at weekends, school holidays and bank holidays.

The sports hall will be retained at the existing size and a removable screen curtain is to be introduced to subdivide the sports hall making the transition between school activities and activities out of school simple. It is considered on balance that the building could still provide suitable tourist facilities if properly managed, particularly during the height of the tourist season when the school is closed for the summer holidays.

With regards to the impact the proposal would have on those existing commercial/holiday uses in the immediate area such as hotels and B&Bs; as the change to a school would only affect the area outside of the main tourism season, during term time, it is not considered to have a significant impact on commercial trading.

Policy SC1 (Healthy Bay) promotes healthy, safe and active living for all age groups, including healthy living options for older people; and Policy SC2 (Sport, leisure and recreation) states that there will be a presumption against loss of existing recreational and leisure facilities unless:

- i) An assessment has been undertaken which has clearly shown the open space, building or land to be surplus to requirements; or
- ii) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a sustainable location; or
- iii) The development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss.

The facilities in the MyPlace building will be available to groups and members of the public outside of school hours. The sports facilities will however be unavailable during the construction phase of the development which is proposed to be one year. The current providers are seeking alternative accommodation for existing users. Some of the proposed new school buildings facilities would be available to the community and youth service outside of school hours as soon as the school is open. During construction part of the existing building to the south will remain open for youth services activities.

It is considered that the proposal would comply with Policy SC2. The facilities will remain available to user groups and members of the public outside of school hours. The facilities would therefore be made available to all users in the peak activity times which would be outside of school hours, at weekends and school holidays. It is proposed that the existing underutilised sporting facilities will be used by Torbay School during the school day.

There will be no change to the existing BMX track, the skate park or the public

right of way across the site. Outside of school hours, at week-ends and during school holidays, the existing youth facilities at MyPlace will continue to be available for the existing users.

A mission statement setting out the shared goals of Torbay School and the Youth Trust is included in the appendix to the submitted Design and Access statement. This sets out the shared aspirations for the project and the need to separate the identity and education function of the MyPlace building from the existing youth provision. The aim is to preserve the sense of ownership of the youth facilities by the Youth Trust, and to create a separation from the education function of Torbay School.

Bearing these points in mind and subject to conditioning the above arrangements, the proposal is deemed to comply with Policies SC1 & SC2 of the Torbay Local Plan 2012-2030 as the existing facilities are proposed to be retained.

Policy SC3 (Education, skills and local labour) of the Torbay Local Plan 2012-2030 states that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. This includes both the expansion of schools to meet identified short to medium-term needs, and construction of new schools.

The proposal requires Torbay School to be relocated to the MyPlace building as its current site on Torquay Road, Paignton is to be altered to provide for the addition of a new primary school. The extensions and alterations to the MyPlace building are required in order to provide appropriate facilities for Torbay School to relocate. The proposal is considered to be compliant with Policy SC3 as it aims to provide an expansion to an existing building to provide a new educational facility.

In terms of the visual impact of the proposal the extension have been sited so as to avoid intrusion onto the sensitive area of the site in proximity to the Grade II listed Parkfield House and folly to the south. The proposed extensions are located to the rear of the main building and thereby aid in retaining the original design concept of the building's principle elevation. The design of the entrance to the school to the north has been amended to provide a stronger sense of arrival with separate staff/visitor and pupil accesses. These alterations are in line with recommendations made by the Council's Urban Design advisor as part of application P/2016/1159.

The site is open to the north from the Colin Road car park allowing a clear view of the entrance to the school and the single storey wing to the east of MyPlace. The development is proposed to be single storey so as to minimise its visual appearance. The scale of the development is considered to be appropriate to that of the original building and subservient in terms of its size and siting. The

extension to the north is recessed where it adjoins the original building to provide some distinction between the old and new elements.

The south west boundary of the site adjoins the side elevation of properties at the end of Marine Park cul-de-sac which is approximately 2 metres lower than the site level. At present there is a substantial 3.0 metre high boundary fence and wall at the end of Marine Park which will aid in reducing the visual impact of the proposed extensions and aid in them blending into the backdrop of the larger main building. The reinforced boundary treatment will also aid in screening the playground and help to reduce noise levels. This will be supplemented with additional landscape planting. Landscaping details will be sought by condition.

Similarly the boundary fence limits the visual impact of the proposed extensions from the rear of the properties on Marine Drive, the main rear two storey elevations of which are in excess of 20m away.

To the north- west the site bounds the rear of the residential and commercial properties on Colin Road, improvements to landscaping here are proposed in order to limit the visibility of the proposed extensions.

The proposed extensions to the MyPlace building have been considered in terms of their impact on the setting of the Grade II listed garden area at the south of the development site and the Grade II listed Parkfield House further to the south. Due to the size and scale of the proposed extensions it is not considered that their addition would be of detriment to the setting of the listed buildings.

2. *Impact on amenity*

Policy DE3 (Development amenity) of the Torbay Local Plan 2012-2030 states that all development should not unduly impact upon the amenity of neighbouring and surrounding uses. The following criteria are amongst those which this Policy is assessed against:

- o The impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution;
- o Impacts on existing living conditions and standards of accommodation of other uses.

The single storey school buildings are not of sufficient size to cause overlooking to the adjoining properties nor do they have a residential element which would entail excessive overlooking. As previously mentioned the boundary fence and wall, which are proposed to be improved in areas by additional landscaping, prevents any significant direct overlooking issues. This also alleviates any issues with the proposed extension appearing to be overdominant.

Alterations to the entrance elevation result in the single storey extension to the north to protrude by a further 1.2m to the east towards no. 8 Marine Park. The majority of this extension is adjacent to the car parking area to the rear of Colin

Road and the pitched roof garage of no. 8 Marine Park. The southern corner of this extension will be within 7 metres of the side elevation of no. 8 Marine Park which has secondary windows above ground floor level. However in an urban environment a distance of 7 metres between side elevations is not uncommon. Due to the single storey nature of the proposed extension it is not considered that overlooking will be a significant issue, the scale of the extension would not result in the development being overbearing on the residents of 8 Marine Park.

As a result of providing the school entrance on the north elevation the previously proposed pathway along the boundary with 8 Marine Park is no longer be accessed by pupils as was the case under application P/2016/1159. The access to this side of the extension is now via an internal fire escape door or a gate. The gate provides access to the plant room.

In combination with their small scale, the boundary treatment and the urban setting of the location, this side by side relationship would not be overdominant on the residential amenity of residents or the character of the properties in Marine Park.

The minibus parking area has been relocated away from the side boundary to a position in front of the sports hall to mitigate impact on neighbours. Improved boundary fencing and landscaping in this area is also proposed.

The refuse/recycling area is located in a somewhat prominent location but is well screened by hard and soft landscaping. The potential for this to be relocated next to the electricity substation has been considered. However its current location is immediately outside of the kitchen area and on balance is considered to be acceptable.

The site is approximately 29m from the ground floor extensions at the rear of the properties in Marine Drive a distance which is considered to result in an acceptable relationship and one which would not result in a loss of light or cause a loss of residential amenity to neighbouring occupiers.

The main impact on neighbouring properties and the wider area will be as a result of vehicle and pedestrian movement at the start and end of the school day. The visual and noise issues related to this are considered to have a limited impact on the residential amenity of neighbouring occupiers as it will be infrequent and for short periods and only on weekdays. The existing fence also provides an effective visual and acoustic screen to the proposed development. As the site is accessed via a car park it is considered that there should be no issues with regards to parking or access egress to residential properties.

The playground will be in use during school terms. The prime period for the occupation of the holiday let properties in the Colin Road/Marine Park will be during the school holidays, thus minimising the risk of noise disturbance to the

adjoining properties. The playground for the proposed school is sited in the most favourable residential location, between the properties on Marine Park. This location is well screened by a 3m boundary wall and fence which will aid in reducing the noise impact associated with the playground.

When considering the points above the proposal is deemed to comply with Policy DE3 of the Torbay Local Plan 2012-2030.

The overall design of the proposed extensions is deemed to be acceptable and fit for the purpose intended. The north entrance elevation has been strengthened in order to aid in the legibility of the development and in order to provide internal alteration to improve circulation space.

Concerns have been raised about crime and the behaviour of pupils and the impact of this on local residents however the Police Liaison Officer has not raised any concerns and Catch 22 have submitted details of a student management plan and a vision for MyPlace which will promote appropriate behaviour in and around the school.

3. Highways impact

Overall the proposal is considered to have an acceptable impact on highways capacity and safety. The application is supported by a Transport Assessment and Travel Plan which state that the Colin Road/Marine Drive junction operates within capacity. The use of the MyPlace building as a school would have an acceptable impact on the highway.

The use of the Colin Road car park to access the site and parking, pupil drop off, would appear to be appropriate since the school will not be in use during peak demand periods for the car park.

A painted line demarcation will provide separation of pedestrians and vehicles using the vehicular access. This is considered to be acceptable and an improvement on the existing situation.

The submitted Travel Plan states that 90.63% of the schools staff currently travel to work by car. The Travel Plan targets a 20% reduction in single occupancy staff car trips over a five year period through encouraging staff to car share and also encouraged other modes of sustainable transport. The Travel Plan also identifies measures to avoid conflict over on-street parking.

The proposal is deemed to comply with Policy TA2 (Development access) and Policy TA3 (Parking requirements) of the Torbay Local Plan 2012-2030.

4. Flood risk

The site is within Flood Zone 1, which is considered to be at a very low risk of flooding.

Infiltration tests on the site confirm that infiltration drainage will not be viable on this development.

As infiltration drainage is not suitable for this site the applicant has identified that the surface water drainage will discharge at a controlled rate to the Occombe Valley Watercourse. The proposed discharge rate has been set at 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area.

The hydraulic design for the proposed surface water drainage system has been included within the site specific flood risk assessment however. Further information on the specification of the system is required before planning permission can be issued.

5. *Ecology*

The majority of the site consists of buildings and hardstanding which provides very little ecological value. The features of highest ecological value on site are the small area of dense scrub and long grass to the north of the site. Part of the area of scrub and long grass will be lost to the mini bus parking and the relocated substation.

No evidence of bats roosting in the application area have been recorded and there is considered to be low potential for foraging bats due to the lack of suitable habitat.

There is potential for birds to nest in the building and the dense areas of scrub to the north and as such all works will need to take place outside of the nesting season and a condition requiring this will be imposed.

The proposed scheme has been considered in regard to any likely significant effect on the environment in accordance with the requirements of the Town and County Planning (EIA) Regulations 2011 and it has been determined that an Environmental Statement is not required.

6. *Other issues covered by the applicant in the submission*

- Car repair workshop - the car repair workshop on the ground floor of the extension to the south will be for repairing parts of cars rather than requiring access to accommodate whole vehicles.
- Size of playground - the restricted playground area is offset by the opportunity for students to use the sizeable sports hall, the other specialist facilities and the additional space available throughout MyPlace. The proposed sports play area is larger than the existing MUGA at the current Torbay School site.
- Playground net - The playground netting has been omitted to alleviate the concerns of the DMC.

- Treatment of site boundary - modest boundary fencing to be considered with upgraded premier landscaping.
- Provision of staff accommodation - staff accommodation is spread across the school complex including the first floor of the existing building to provide distributed management. This was the rationale for placing the staff room on the first floor which also provides surveillance over the external areas. The admin area has been redesigned to include additional facilities.
- Space standards - the accommodation area has been carefully considered to take account of the existing facilities at MyPlace, with reference to BB102 Government Guidance.
- External access to the playground - Torbay school will manage student behaviour to prevent nuisance to neighbours under the MyPlace behavioural management strategy and student management plan.

Conclusions

The proposed development would result in the use of a building which is underutilised during school times by providing a new educational facility and the extensions to the building would comply with Policy SC3 (Education, skills and local labour) in the Torbay Local Plan 2012-30. The form, layout and design of the proposed extensions are principally of a suitable scale and siting to not dominate the character of the original MyPlace building or be of significant detriment to the privacy and amenity of neighbouring residential properties and holiday accommodation. Consequently subject to the receipt of additional information relating to drainage, it is, on balance, considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations, subject to the conditions itemised below:

- Opening hours between the school and youth services to be set to ensure the retention of the existing facility
- Implementation of staff travel plan
- Removal of permitted development rights to prevent a change of use without first gaining the consent from the Council
- Submission of finished floor levels taken from a fixed ordnance datum point
- Lighting strategy
- No ground/clearance works in bird nesting season
- Submission of boundary treatment & landscaping plan
- Landscape implementation
- Materials
- Implementation of drop off area and parking
- Implementation of drainage strategy
- Development should be undertaken in strict accordance with the Conservation Action Statement (Appendix 4) of the Preliminary Ecological Appraisal, Acorn Ecology, September 2016 in order to avoid, mitigate and

- compensate for anticipated ecological impacts
- Submission of a Construction Method Statement which includes the avoidance and mitigation measures set out in the Conservation Action Statement
 - The compensation and enhancement measures set out in the Conservation Action Statement are reflected on a landscape plan to be submitted for approval by Torbay Council prior to commencement. The landscape plan should include details of proposed species, plant sizes and plant numbers/densities, as well as on-going management. The number, type and locations of the proposed bird nesting boxes should also be shown on this plan.

Relevant Policies

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Agenda Item 9

Application Number

P/2017/0031

Site Address

Land At Raleigh Avenue,
Adj. Davis Avenue
Chelston
Torquay
TQ2 6DU

Case Officer

Verity Clark

Ward

Cockington With Chelston

Description

Installation of 12.5m monopole, 2 microwave dishes, 2 equipment cabinets and associated works

Update Report:

On the 13th February, the Development Management Committee considered a prior approval application for the erection of a 12.5m monopole with 2 microwave dishes, two additional cabinets and ancillary development. The Committee resolved to defer the application to allow the provision of revised plans which aim to address an objection raised by the Council's Senior Strategy and Project Officer in respect of highway safety concerns from the location of the pole.

Since this meeting, the applicant has provided revised plans relocating the proposed 12.5m monopole to a setback location on an area of grass behind the public footpath.

Executive Summary/Key Outcomes

The proposal is for the erection of a 12.5m monopole with 2 microwave dishes, two additional cabinets and ancillary development.

The installation of the proposed monopole and equipment constitutes permitted development and does not require planning permission. This submission is for determination as to whether the prior approval of the Local Planning Authority is required as to the siting and appearance of the development.

The siting and design of the proposal is considered to be acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality.

The application is deemed to be acceptable for prior approval on the grounds of siting and design.

Recommendation

Prior Approval granted.

Statutory Determination Period

The application must be determined within 56 days of the validation of the application unless a formal extension of time of the determination date is agreed. If a decision is not issued within this time period the development is granted automatic approval. An extension of time has been agreed to the 23.03.17.

Site Details

The application site is highways land at the junction of Raleigh Avenue and Davis Avenue situated on an area of grass verge behind a pedestrian footpath to the south of an existing cabinet and on the opposite side of the road from an existing telegraph pole.

Detailed Proposals

The proposal is to erect a 12.5m monopole with 2 microwave dishes, two additional cabinets and ancillary development.

Summary Of Consultation Responses

Strategy and Policy: The location of the proposed 12.5m high Jupiter pole is not considered acceptable for safety reasons because it is too close to the kerb and there is a danger that large vehicles may override the radius and collide with the pole. An acceptable location would be behind the footway paving slabs on the verge in line with the existing cabinet. - *As the original proposal has been modified to move the location of the monopole to behind the footway paving slabs no objection is raised to the revised proposal.*

Summary Of Representations

The consultation period for the application expires on the 17th March and at the time of writing 107 representations have been received. The neighbour consultation period for this application is due to expire on the 17/03/17, after the date of the March Development Management Committee meeting. Therefore, no decision shall be issued until after the neighbour consultation period has finished.

Issues raised by representations:

- Health issues
- Property values
- Ability to sell and rent properties
- Impact on social housing
- Alternative locations
- Interference of TV signals
- Vandalism
- Residential location
- Visual appearance

- Maintenance and associated vehicle movements
- Improved signal
- Contamination
- Environmental impacts

These representations have been sent electronically for Members consideration.

Relevant Planning History

None

Key Issues/Material Considerations

This application is for determination as to whether the prior approval of the Local Planning Authority is required as to the siting and appearance of the development.

In terms of siting, the 12.5m monopole would be located on an existing grass verge in the vicinity of existing telecommunications cabinets. The pole will be situated behind a public footpath, set back from the edge of the road whilst retaining pedestrian access via the existing pathway. The Council's Senior Strategy and Project Officer has confirmed that the siting is acceptable in terms of highway safety impacts. The pole is located to the side of 2 Davis Avenue and across the road from 1 and 3 Davis Avenue thereby reducing any detrimental impacts on the neighbour amenity of the closest properties by the siting of the equipment. The proposed pole is not considered to impact upon light levels, or to be visually obtrusive or overbearing in nature and as such the siting is considered to be acceptable.

The location of the pole is within close proximity to existing street furniture although the proposed pole will be approximately 5.65m higher than the existing telegraph poles in the area. Due to the fairly open location of the site, the increase in overall height is not considered to significantly impact upon the visual appearance of the streetscene. In terms of the design, the column with associated antennas would be a fairly slimline structure which is considered to be compatible with the context of the locality. The colour of the mast would be grey which is considered to be acceptable in this location. This element of the proposal is therefore considered to be acceptable in terms of design and visual appearance.

The two additional cabinets would be located to the south of the existing green cabinet, set back from the pedestrian pavement and to the south of the proposed pole. The siting and design of the proposed cabinets are considered to be in-keeping with the existing street furniture in the area.

It should be noted that the existing telecommunications equipment provides coverage for the 2G network in the area. With the release of 4G the area requires additional equipment to allow for 3G and 4G coverage. The proposal is part of a

joint venture by O2 and Vodafone and is intended in the long term to reduce the number of base stations nationally by consolidating single use base stations. The proposal includes information detailing the site selection process and confirms that the current site provides the most suitable location to provide improvements to the existing network coverage and capacity as well as catering for future demands.

Guidance from the NPPF on determining planning applications for communications infrastructure states that "Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure." As such this prior approval application cannot consider issues such as the need for the equipment, the potential health implications of the equipment or more general non planning issues such as impacts on property values.

The siting and design of the proposal is considered to minimise the impact on the character and appearance of the surrounding area allowing the proposal to blend in with existing street furniture in accordance with Policy IF1 of the Torbay Local Plan 2012-2030.

Conclusions

The siting and design of the proposal is considered to be acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality.

Prior approval of the Local Planning Authority for the siting and design of the 12.5m monopole with 2 microwave dishes, two additional cabinets and ancillary development should be granted.

Informative(s)

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

Relevant Policies

DE1 Design
DE3 Development Amenity
IF1 Information and communications tech

Application Number

P/2017/0092

Site Address

Land At
Princess Gardens
Off Torbay Road
Torquay
TQ2 5EY

Case Officer

Mr Scott Jones

Ward

Tormohun

Description

Change of use of land for the temporary erection and operation of a 50m observation wheel, carousel and associated ancillary development (5 year period between the period of March to the 31st October).

Executive Summary/Key Outcomes

This is the sixth application for consent for the erection of a 50m observation wheel with associated development on land within Princess Gardens, which is a Registered Historic Park and Garden.

The application seeks permission for a five year period and follows five previous temporary one-year consents for an observation wheel within Princess Gardens.

The application proposes a different location for the observation wheel within Princess Gardens. It is located away from its previous position immediately adjacent to the Grade II Listed Pavilion building, to a location approximately 110 metres to the west, on land between the War Memorial and the Princess Theatre.

The application includes the provision of a carousel within the 'Banjo' area of Princess Gardens, which is an addition to the previous applications which were solely for an observation wheel with ancillary development.

The application proposes annual use between the period of mid-March and 31st October (2017-2021).

Previously it was considered that a more permanent permission in the 'old' location would not be considered acceptable due to the impact upon the setting of the Grade II Listed Pavilion building. The new location for the observation wheel is considered to have a reduced impact upon the setting of the Grade II Listed Pavilion building.

Previously it was stressed that any future, more regular, use of the Gardens for an observation wheel should be subject to a more rigorous assessment as

requested by Historic England and also be linked to mitigation to achieve some conservation benefit for the 'at risk' gardens.

The application is supported by an appraisal of other possible sites for the observation wheel within Torbay. The appraisal discounted the other possible sites identified as being viable options. Assessment was also undertaken of other potential positions for the wheel within Princess Gardens to see whether there was a less harmful location upon the setting of the heritage asset/s. The assessment of locations within the gardens concluded that the proposed position is less damaging on the heritage asset/s, principally as it is less harmful on the setting of the Grade II Listed Pavilion building. Conservation benefits to offset the harm have also been explored and there is agreement between the Applicant and the Council that a portion of the annual rental yield will be ring-fenced for improvements to Princess Gardens in accordance with works that are currently being formally identified within an emerging Council Management and Development Plan for Princess Gardens. It is proposed that over the five year period £60,000 of the rental stream would be used for improvement works. Comment is awaited from the Council's Conservation Officer and English Heritage as to whether this is enough to mitigate the harm of development over a five year period.

At the time of writing the report there are detailed design elements awaited in terms of the form of the wheel, carousel and ancillary development, and these are necessary to inform the decision in regard to the likely visual impact.

It was previously concluded that in the old location of the wheel the erosion of privacy was not a sustainable objection to the scheme. The new location presents a similar distance to properties on Warren Road, where the observation wheel will be circa 100metres from the nearest properties. The impact on privacy is similar and the conclusion that erosion of privacy is not a sustainable ground for objection remains.

Previously light pollution had been a concern in terms of amenity. Mitigation in the form of vinyl overlays to the pod lighting was secured by condition to lessen the impact of light-spill. The impact of light pollution requires re-assessing due to the new location and re-orientation of the wheel. Further information has been requested.

Previous concerns have been expressed about the impact of vehicles loading and moving the wheel on the structural stability of the site. This was and could again be ameliorated through a traffic management plan and more effective operational control during construction and dismantling, achieved by means of a condition. Due to the close proximity of trees arboricultural impact should be considered within this.

At the time of writing 17 letters of objection and one letter of support have been

received.

Subject to the satisfactory resolution of the outstanding matters the wheel, carousel and associated development, placed for a period of five years within the extended 'summer' season identified, would continue to provide a high profile tourist attraction and one that would help fund necessary improvement works to the 'at risk' Registered Park and Garden.

Subject to satisfactory heritage mitigation and due consideration of detailed design elements and lighting impact, the proposal is considered to provide a satisfactory location for a longer term arrangement over five years.

Recommendation

Approval, temporary five year consent to be granted for the period between 15th March and 31st October annually up to and including 2021, subject to;

1. The receipt of further detailed information in regard to the form of the observation wheel, carousel, catering unit, compound and seating area, and Flood Risk Assessment, to the satisfaction of Officers,
2. The receipt of an updated lighting impact assessment that concludes no undue harm to amenity, and the provision of any detailed mitigation measures identified, to the satisfaction of Officers,
3. Resolution, in consultation with Historic England, of adequate mitigation to offset the impact of the observation wheel and the associated development on the Registered Park and Garden, in terms of a level of funding achieved to directly invest in conservation works to be identified in the Council's evolving Management and Development Plan for Princess Gardens,
4. Achieving a Planning Obligation, sum to be agreed, either through an upfront payment or signed S106 Legal Agreement, prior to the 30.03.2017 or within 3 months of the date of this committee if an extension of time is agreed with the applicant, to mitigate the impact of the development upon Princess Gardens from additional footfall and movement resulting from the development, and
5. Conditions, delegated to the Head of Business Services, to include those outlined within this report (hours of use, reinstatement of land, traffic management, and no storage within tree protection zones).

Statutory Determination Period

This application should be determined within an 8 week period and the target date for determination is the 30th March 2017.

Site Details

This is a sensitive location, it is prominent within the Torquay Harbour Conservation Area, is near to a Grade II Listed building (Pavilion) and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. It is adjacent to the War Memorial and near to the Fountain, which are

both also Grade II listed structures. Development is also proposed within the Banjo area of Princess Gardens, the circular feature that is circled by footpaths close to the outer harbour.

The site is also in a Core Tourism Investment Area (CTIA).

The application site is owned by Torbay Council.

Detailed Proposals

This application is for a five year consent for the erection of a 50m observation wheel, carousel, ticket office, ancillary catering unit and seating area, yearly from mid-March until the 31st October, from 2017 to 2021, within Princess Gardens, Torquay.

The observation wheel is to be sited between the War Memorial and Princess Theatre, at an oblique angle to the adjacent highway with a northeast-southwest orientation. A scaled elevation of the observation wheel has been requested.

A ticket office 2.8m wide by 2.2m deep is to be positioned adjacent to the existing entrance point between the observation wheel and the Banjo, abutting the existing low wall.

A catering unit 5m by 2.5 will sit adjacent to the observation wheel and will back on to a small compound area. The elevation detail of the catering unit and detail of the means of enclosure behind it has been requested, along with detail on the seating area.

A Carousel with a 14m diameter is proposed within the Banjo area of the gardens. The elevation detail has been requested.

Summary Of Consultation Responses

Historic England: Comments awaited.

Whilst a formal response has not been received at the time of writing, Historic England have consistently expressed concerns about the potential harm that an observation wheel could cause to the Heritage Asset/s.

Previously, given that the proposals were temporary and short term (one year permissions) harmful impacts were short term and a pragmatic approach was taken. HE have previously stressed that if the proposal was to become more permanent in nature, then a better assessment of its impact on Heritage Significance should be made. It was also previously suggested that if more permanent the impact of the structure should be assessed against the criteria in HE's Temporary Structures in Historic Places'. It was also suggested that as Princess Gardens is 'at risk' some mitigation or conservation gain should be achieved if more permanent.

Conservation Officer: Minor reservations in principle about the wheel. The new location is in the narrowest part of Princess Garden where it is constrained by the war memorial, the theatre, the theatre's 'service area', and the 1904 seawall subsumed by the 1938 reclamation. The wheel at the location will affect the setting of the grade II registered park and the listed war memorial.

However the harm is much less than substantial and in conservation terms easily reversible - as is evident by its proposed removal between October and March. It is permeable so no views are permanently obscured.

The supporting planning statement and heritage impact assessment talk about the planning gain, and monetise it at £50,000 over five years for the wheel, and £10,000 for the carousel, but no schedule of recognised works is set out, though it is evident from the plan [drawing 0108 -(20)004] that the westernmost shelter will need to be demolished and the central area of the banjo and its fountain similarly so.

The natural environment section have recently commissioned a conservation management plan, which I have seen and commented upon in draft, and is understood to be due for completion. This should have informed any temporary or permanent works of enhancement and provided a means of effectively conditioning the work and the schedule of development.

The Devon Gardens Trust: The heritage asset of Princess Gardens comprises the late C19 seafront public garden which is a grade II Registered landscape, Princess Parade, the Pavilion, a cast iron fountain and the early C20 war memorial, all listed grade II.

The supporting Planning Statement confirms that a substantial part of the rental income from the observation wheel would go towards improvements to Princess Gardens. The improvements previously discussed include the removal of the inappropriately designed seating shelters (which are often subject to vandalism), the repair and maintenance of both the War Memorial and the cast iron Fountain. The removal of the seating shelters would be a considerable improvement to the character and appearance of the gardens.

In view of the conservation gains The Devon Gardens Trust do not object.

Environment Agency: The application is not supported by a Flood Risk Assessment.

A Flood Risk Assessment is required prior to the determination of the application as part of the site is within an area with a high risk of flooding.

It is noted that previous applications were accompanied by a Flood Risk

Assessment and the applicant is advised to refer back to previous applications and submit an up to date Flood Risk Assessment.

Drainage/Engineers: A Flood Risk Assessment is required prior to determination to support the application.

The application should be accompanied by a detailed surface water drainage design.

Community Safety Officer: An updated lighting assessment is necessary to consider any impact and design mitigation.

The Principal Natural Environment Officer: Comments awaited, however at the time of writing it has been expressed that a Management and Development Plan for Princess Gardens is being evolved and there has been discussion on a ring-fenced revenue stream towards works identified.

Arboriculture Officer: Advise that no significant arboricultural constraints exist in relation to the spatial requirements of the structures in terms of footprint or vertically.

Any tree loss should be holistically addressed by incorporation into emerging document 'Landscape, Masterplan and Conservation Management Plan' for the wider Princess Gardens.

That the scheme be suitable for approval on arboricultural merit subject to a condition requiring no storage of materials within the defined Root Protection Area depicted in plan ref. CT_4423.17_TCP

Green Infrastructure Co-Ordinator: No objection.

Strategic Transport/Highways: Comments awaited.

Engineers: Previous settlement levels at the wheels' previous location have been reassuring and it is expected that the location between the War Memorial and Princess Theatre would have a similar degree of 'satisfactory' bearing capacity as it also sits within the 1894 development line.

South West Water: No objection.

Marine Management Organisation: No Objection.

Ecological Advisor: Verbal confirmation that an ecological assessment is not required and although a representation has referenced that there are bats in the locality they are likely to be the more common and light-tolerant species rather than, for example, Greater Horseshoe Bats. In the context of the location no

further assessment is required.

Summary Of Representations

17 letters of objection and one letter of support has been received at the time of writing.

Relevant planning concerns include:

- impact upon the townscape and character of the area
- impact upon views of the area
- noise and nuisance to residents adjacent
- loss of privacy to adjacent residents who live on Warren Road
- impact of the lighting, which has previously changed colour and flashed
- impact of the additional timescale
- there are better locations for the wheel
- noise from the carousel
- impact on bats.

Supportive comments include that it provides a spectacular tourist attraction, provides jobs and supports the area generally.

Relevant Planning History

Observation Wheels:

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

P/2013/0167: Temporary Consent for period 24th May- 5th November: Approved 8.04.13.

P/2014/0193: Temporary consent for period March-October 2014.

Approved: 15.04.14.

P/2015/0042: Temporary consent for period March-November 2015.

P/2016/0384: Temporary consent for a period until 31st October 2016.
Approved: 19.05.2016

Pavilion Proposals:

P/2015/0961: Change of use and restoration of Pavilion to form hotel reception and spa including restaurant, bars and function rooms. Construction of 4/5 storey 60 bed hotel, 5 and 11 storey block of 43 residential apartments, with ground floor restaurant and retail uses adjacent to harbour. Link between Pavilion and new hotel. Construction of new harbour walkway, provision of 289 car parking places including 74 spaces on Cary Green (42 seasonal; 32 for hotel). Construction of Marina Office and berth holder facilities and erection of Dock masters Office and associated landscaping (proposal revised 5 July 2016). Approved at Development Management Committee 27.02.2017.

P/2015/0962: Refurbishment of building including repairs to corroded structure and works to prevent water penetration. Internal and external works to listed Pavilion to enable use as hotel foyer, including function rooms, bars, restaurant and spa. Construction of linked access from first floor level to proposed waterfront hotel (proposal revised 5 July 2016). Approved at Development Management Committee 27.02.2017.

Key Issues/Material Considerations

This is the sixth application for consent for the erection of a 50m observation wheel with associated development but the first for a period longer than one year, as it seeks a five year permission.

It is also the first that proposes a location other than immediately adjacent to the Pavilion building and the first that proposes a carousel within the Banjo area of Princess Gardens.

The setting remains that of development within a Grade II entry on the Register of Historic Parks and Gardens and the Grade II listed Pavilion building.

Relevant policies are paragraphs 132-134 of the NPPF and Policies TO1 (Tourism, events and culture), TC1 (Town centres), DE1 (Design), DE3 (Development amenity), HE1 (Listed buildings), SS10 (Conservation and the historic environment), SDT1 (Torquay) and SDT2 (Torquay Town Centre and Harbour) of the Torbay Local Plan 2012-2030 apply.

The key issues are:

1. Principle of the development
2. Impact on heritage assets
3. Design and visual impact
4. Impact on adjacent amenity
5. Impact on trees
6. Structural stability of the site.

1. Principle of the development

Policies SDT2 (Torquay Town Centre and Harbour), TC1 (Town centres), TO1 (Tourism, events and culture) and TO2 (Change of use of tourism accommodation and facilities) provide relevant policy guidance on the principal of a leisure attraction on the edge of Torquay Town Centre and Harbour.

Policy SDT2 seeks to reinforce Torquay Town Centre as the principal retail and leisure centre of the Bay, to become the key sub-regional retail and leisure destination and to provide a vibrant and more enjoyable shopping and leisure environment.

Policy TC1 centres on retail and town centre uses and reinforces the town centre first approach. Two criteria apply and there is a notion of support for

development for mixed use edge of centre developments that help achieve more balanced communities by delivering a mix of uses including employment and leisure, which is relevant (Criterion v), and the use of heritage assets, public art and public space, events, exhibitions and festivals to provide a more enjoyable, creative environment (Criterion viii).

Policy TO1 seeks that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. It furthers that tourist facilities will be improved and modernised and new tourism facilities provided, in order to attract new visitors. The Policy supports in principle the provision of new tourist attractions, subject to other Policies in the Local Plan. The Policy supports the retention, improvement and creation of high quality tourism and leisure attractions in sustainable, accessible, locations with a particular focus on Core Tourism Investment Areas as the areas for investment in tourism.

Policy TO2 seeks that within Core Tourism Investment Areas that the role of premises should be retained and enhanced commensurate with their contribution to the area's tourism offer.

Then provision of an observation wheel within a well-located, central and sustainable location within what is a Core Tourism Investment Area is considered to be supported in principle when considering the town centre and tourism policies cited above, subject to other material consideration.

2. Impact on the Heritage Assets

Previous applications have recognised that a permanent occupation of the land adjacent to the Pavilion by the observation wheel would be, in the long term, harmful to the architectural and historical character of the site. Alongside this it was also anticipated that works could commence on the restoration of the Pavilion which would preclude continued occupation of this site by the wheel in the event that planning permission and listed building consent being granted for proposals involving the Pavilion. Such proposals have now been recently approved by the Development Management Committee.

In-line with advice from the Council and Historic England the applicant has undertaken an alternative sites assessment in order to consider other potentially viable and more appropriate (i.e. less impacting upon heritage assets) locations for a longer term arrangement (in this case five years).

Sites outside of the Registered Park and Garden across Torbay have been considered, including Torre Abbey Park, Torbay Park in Paignton, and Paignton Green. These sites have been discounted as viable options for reasons such as limited footfall and conflict with other uses (such as the air show) including reasons such as health and safety.

An assessment of alternative locations within Princess Gardens has also been undertaken by the applicant, prepared with consideration of the known constraints such as stability, the listed building and listed structures within the park, tree constraints, and the size requirements of the observation wheel.

The assessment of alternative locations has concluded that the application site, is the location with the least impact within the Registered Park and Garden.

The proposed location is approximately 110 metres to the west of its former location and the impact upon the setting of the Grade II Listed Pavilion building is significantly reduced, as it no longer crowds or obscures the western elevation of this building, which is one of the two principal elevations of the building.

The observation wheel will be close to the Listed War Memorial and within the setting of the Listed Fountain, but care has been taken to ensure a suitable gap to the War Memorial and retain horizontal and vertical space and retain circulation, so as not to unduly crowd or restrict access around this structure. The proposal does have an impact upon the setting but does not impact the Listed structure itself. The impact upon the setting of the Listed Fountain is less due to the distance and again the impact is one of setting and it does not impact the Listed Structure itself. The proposal does seek to offset the impact by providing funding towards the restoration of these structures, which is covered below.

More broadly in terms of the visual prominence and setting of the Registered Park the observation wheel, when approached from the east (from Cary Green / the Pavilion) the wheel will be partially set against the backdrop of the theatre building, which will lessen its visual prominence. From the west the theatre building will partially obscure views on the approach. From the north along Torbay Road and/or Rock Walk, the wheel will be partially obscured by the line of mature London Plane trees. From the south, from the sea or pier, the cliffs of rock walk provide a frame behind the structure that will also lessen its visual prominence. Having considered the context and constraints it is considered that the site appears the least harmful location for the wheel if it is to be placed within the Registered Park and Garden, but it still presents harm, which is considered less than substantial, due to the temporary nature of the development and the permeability of the structure in terms of views through the wheel.

In regard to the other forms of development proposed these elements are far more di minimus in scale and hence the potential harm is more limited. The proliferation of clutter is however an issue of concern for the Registered Park and Garden and hence the form and location of these needs to be duly considered and at the time of writing the report certain detailed information has yet to be submitted. It is however considered fair to assume that the accumulation of structures will present some form of harm, which is less than substantial.

The NPPF provides relevant advice.

Para 131 cites that in determining planning applications, local planning authorities should take account of:

- i) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- ii) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- iii) the desirability of new development making a positive contribution to local character and distinctiveness".

It further adds in Para 134 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The submitted planning statement presents that the granting of permission for a longer period would provide the operator with greater commercial security and that this in turn provides the ability to secure a direct revenue stream for ring-fenced investment in the Registered Park and Garden. It is suggested that the potential conservation gains proposed, together with the economic and tourism benefits, adequately offset the less than substantial harm on the heritage assets, in accordance with the NPPF guidance.

The proposal is that over the five year period £60,000 of the rental stream would be ring-fenced for improvement works to the 'at risk' Registered Park and Garden, which would be invested in works identified within the Council's evolving Management and Development Plan for the Princess Gardens.

Early discussions between the applicant and the Council's Principal Natural Environment Officer have identified that the evolving Management and Development Plan is likely to include already identified necessary remedial works to the Grade II Listed Fountain and the Grade II Listed War Memorial and that the development could provide funding to the sum of £30,000 for each of these projects. Discussions have also been held in regard to achieving funding to replace the two shelters in the Park which are subject to vandalism and anti-social behaviour with alternative and more appropriate seating arrangements within the Park. Funding towards the shelter works is absent from the proposal and certainty on this have been requested from the applicant and the Council's Principal Natural Environment Officer.

Comments are awaited from the Council's Conservation Officer and Historic England as to whether the conservation gain is significant enough to mitigate the less than substantial harm of the development over a five year period. Comment is also awaited from the Principal Natural Environment Officer over the terms and security of the income stream .

It is considered that the impacts remain short term and reversible in nature notwithstanding the longer permission sought, and this remains an important consideration. The proposal would principally duplicate the five one-year consents that have seen the wheel positioned in a more prominent and impacting location in the gardens and the Grade II Listed Pavilion building.

It also remains pertinent that wheel has been immensely popular, has attracted tourists, created a dramatic and striking feature within the townscape and has generated economic benefits for the town in terms of increased spend . Once removed, the former site has been quickly and reinstated to its former condition and such arrangements could again be secured by condition for its new location.

In the circumstances, given the conservation, economic and tourism benefits of the wheel, subject to the outstanding comments of the Councils' Conservation Officer and Historic England and agreement on achieving sufficient conservation 'gains' to offset the less than substantial harm, there would appear sufficient public benefit to permit a five year permission in the location proposed when considering the level of harm to heritage assets.

The scheme, subject to the above, would be compliant with Policies SS10 and HE1 of the Torbay Local Plan and advice contained within the NPPF in regard to heritage assets and less than substantial harm, as indicated within Paragraphs 131 and 134.

3. Design and visual impact

In regard to the impact of the development upon the wider townscape Policy DE1 (Design) provides pertinent advice.

Policy DE3 states the development should be well-designed, respecting and enhancing Torbay's special qualities, with design considerations on (i) function, (ii) visual appeal and (iii) quality of public space.

In terms of function the structures are temporary in nature and the temporary impact of placing them within Princess Gardens will not alter the adaptability of the space in terms of future change and need. The development is also aligned with functionality in terms of providing diversity to the Park's longstanding tourism and recreation use. The development will also integrate within the constraints of the green infrastructure and principal routes through the Park, with the main thoroughfares unaffected. In terms of function development should avoid light and noise pollution and as matters stand further information has been requested in terms of a lighting specification. Members will be up-dated on this matter at the Development Management Committee.

In terms of visual appeal the observation wheel is a very prominent and distinguished structure that would, as will almost all locations, be very striking

within the townscape. The character and permeability of the wheel will however protect long-distance public views and, through its use, the wheel will also introduce new view-points for residents of and visitors to Torbay. Overall in terms of visual appeal the wheel will have an impact upon the townscape due to its scale and prominence, however the impact is considered limited as the structure is temporary in character, lightweight in terms of how it retains views through it.

In terms of the quality of the public space the location of the development seeks to respond to and address the key public routes through the Park and limit the impact upon these routes. As a unique attraction that is only in a handful of locations nationally the development has the potential to enlighten the experience of the Park and wider promenade as a recreational destination.

Considering the character, form and location the development is considered suitable for the context and in accordance with the aims and objectives of Policy DE1 of the Local Plan 2012-2030.

4. Amenity

Policy DE3 (Development amenity) of the Torbay Local Plan seeks to secure development that does not unduly impact upon the amenity of neighbouring and surrounding uses, with impact being assessed to include noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The revised location will remain within a public setting and would have little impact upon the commercial operations around the gardens and immediate area, due to its form and location. The development may actually have a more demonstrable beneficial impact on neighbouring commercial operations where they may benefit from the additional footfall and tourism interest that the wheel and carousel is likely to generate.

In terms of residential impact the nearest adjacent properties on Warren Road sit on higher ground to the north of the wheel, approximately 100 metres from the proposed location. It has previously been determined that the impact on privacy and noise nuisance to residential properties 100meters away are not sustainable reasons to resist the wheel, subject to conditions to restrict the hours of operation. This opinion is maintained with the proposed new location of the wheel.

Previously light pollution has been a concern and earlier permissions did achieve a form of vinyl to the underside of the cabins in order to lessen the impact of the lighting. The supporting light assessment has not been updated to assess the impact of the revised location and the revised orientation of the wheel on adjacent occupiers. There is a lack of clarity on the extent of lighting, whether the lighting is directional and/or to either of both sides. Further information has been requested to address this.

In terms of amenity, providing a further lighting assessment is received that concludes that the lighting is adequately designed to limit harm on amenity and/or there is adequate mitigation proposed to achieve this, the wheel would be acceptable on amenity terms and compliant with Policy DE3 of the Torbay Local plan

5. Arboricultural impact

There is a linear row of mature London Plane trees to the north of the proposed location, which are set along the adjacent footpath and frame the highway. These provide significant visual benefits to the character of the area and the setting of the Registered Park and Garden.

The location of the wheel appears to respond to the crown and rooting protection area of these trees and would appear to present a sustainable relationship.

There appears sufficient access to the site from the northwest adjacent to the Theatre which presently receives heavy goods vehicles to service theatre productions.

The Council's Arboricultural Officer has advised that there is an appropriate spatial relationship with notable trees in the area and there is no objection to the proposal on arboricultural grounds.

The proposal is considered acceptable on arboricultural merit and aligned with policies DE1 and C4.

6. Structural Stability of the site

Previously the occupation of the site by the Pavilions posed no threats to the structural integrity of the gardens which comprise reclaimed land.

The Council's Engineer has advised that on the assumption that the now-proposed site area between the War Memorial and the Theatre is of similar material to that of the site previously utilised, it is anticipated that there is a similar degree of 'satisfactory' bearing capacity from the soil.

The design of the wheel spreads the load of the structure by using load bearing plates, which historically have been agreed and verified by the Council's structural engineers. Matting, sleepers and boards have been historically used to minimise the impact of footfall on the ground around the wheel.

There was historical concern that the weight and size of vehicles delivering the wheel may have caused some damage to the structural integrity of the gardens and the means of accessing the site appeared to have caused some damage to footways and kerbs. These matters are largely of an operational nature and should be picked up in the lease.

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

S106/CIL

The development is a significant tourist attraction and is likely to increase footfall in the gardens. Mitigation for the harm of the additional footfall should be achieved either through an upfront payment or through a signed Section 106 Legal Agreement. The level of mitigation is to be identified and Members will be updated.

The Council's Strategic Project Delivery Officer has been asked to provide advice on the likely level of impact and level of mitigation that should be achieved.

In order to mitigate the harm caused to the architectural and historical character of the site the developer will be required to make an additional financial contribution (amount to be confirmed) which will be used by the Council to carry out works of repair and renovation to the Registered Park and Garden

Conclusions

It has always been accepted that a permanent occupation of the land adjacent to the Pavilion by the observation wheel would be, in the long term, harmful to the architectural and historical character of the site.

The proposed location is considered less impacting on the Grade II Listed Pavilion building. It is also considered the least impacting location within the Registered Park and Garden.

Conservation gain is proposed to offset the less than substantial harm caused to the heritage asset/s. Comment is awaited from the Council's Conservation Officer and Historic England as to whether this gain is sufficient at the level indicated.

Additional detail is required in regard to the precise form of the development and the lighting detail.

Mitigation for the impact of additional footfall is necessary and this should be achieved through a S106 Legal Agreement. The level of impact and mitigation, and works to be carried out is to be confirmed.

Subject to the resolution of the outstanding matters the development proposals for a five year period will accord with the aims and objectives of policies TC1, TO1, TO2, HE1, SS10, C4, DE1 and DE3 of the Torbay Local Plan 2012-2030.

Recommendation

Approval; to include the following conditions.

01. The permission, allowing occupation of the site by the observation wheel, carousel and ancillary development, shall be for a temporary period only between the periods of March 15th and the 31st October, for the years 2017 to 2021. Following removal of the observation wheel, carousel and ancillary development after each period of operation or before this date, the gardens shall be reinstated in accordance with details that shall have previously been submitted to and agreed in writing with the LPA. The agreed scheme of reinstatement shall be implemented in full within two weeks following the removal of the development.

Reason: The use of the site by the development is only acceptable on a short term basis and more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to policies HE1 and SS10 of the Torbay Local Plan 2012-2030.

02. The observation wheel, carousel and the associated ancillary catering facilities shall only operate between the hours of 10.00 and 22.00 hours daily.

Reason: To ensure that disturbance to residents who overlook the site is minimised in accordance with policy DE3 of the Torbay Local Plan 2012-2030.

03. Prior to the wheel arriving on site a traffic and operational management plan and details of the operational control during construction and dismantling, which shall include due consideration and information regarding the protection afforded adjacent trees during operations, shall be submitted to and approved by the Local Planning Authority. The operation of moving the wheel onto and off the site shall accord with the approved details.

Reason: In order to protect the structural integrity of the site, in accordance with Policies HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

04. No storage of materials within the defined Root Protection Area depicted in plan ref. CT_4423.17_TCP.

Reason: To protect the rooting area of significant trees within the locality, in accordance with Policy C4 of the Torbay Local Plan 2012-2030.

Relevant Policies

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