



Friday, 1 December 2017

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 11 December 2017

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Torquay

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby

Councillor Doggett

Councillor Hill

Councillor Lewis (B)

Councillor Morey

Councillor Pentney

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:

Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

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

To confirm as a correct record the Minutes of the meeting of this Committee held on 13 November 2017.

(Pages 5 - 7)

3. Declarations of Interests

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

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

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

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

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

4. Urgent Items

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

5. Land South Of Yalberton Road, (Yannon's Farm), Paignton (P/2014/0983/MOA) - update

(Pages 8 - 40)

Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme) (This is a departure from The Adopted Torbay Local Plan 1995-2011).

- | | | |
|-----|---|-------------------|
| 6. | Hoburne Ltd, Grange Court Holiday Centre, Grange Road, Paignton (P/2016/0625/PA)
Redevelopment of touring section (Hill View) to holiday static caravans with 12 month holiday season. | (Pages 41 - 48) |
| 7. | Hoburne Ltd, Grange Court Holiday Centre, Touring Section (Woodland Glade), Grange Road, Paignton (P/2016/0633/PA)
Redevelopment of touring section (Woodland Glade) to holiday static caravans with 12 month holiday season. | (Pages 49 - 56) |
| 8. | Land Off Brixham Road - Former Nortel Site, Long Road, Paignton (P/2017/0571/MVC)
(Variation of conditions on planning application P/2014/0947/MOA; As amended by S73 applications P/2016/1372 and P/2017/0123):
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. (Condition 32: Restrictive Goods Condition). | (Pages 57 - 81) |
| 9. | Land At Woodview Road, Paignton (P/2017/1042/MPA)
Construction of two Use Class B2 industrial manufacturing units, to provide 2255.9m2 (GIA) of floor space, external lighting, circulation space, car parking and hard standing. | (Pages 82 - 101) |
| 10. | Ormonde Cottage, 15 Newton Road, Torquay (P/2017/0406/MPA)
Provide 12 No. 2 Bedroom Townhouses (as revised by plans received 16.11.2017). | (Pages 102 - 119) |
| 11. | Rutland Hotel, Daddyhole Road, Torquay (P/2017/0751/PA)
Conversion of former Rutland Hotel into 5 flats, partial demolition of existing buildings and construction of 1 no. 3- bed house and 2 no. 4 bed houses.(Revised Scheme 24/10/17). | (Pages 120 - 131) |
| 12. | Former Changing Rooms, Stoodley Knowle Meadow, Torquay (P/2017/0966/PA)
Change of Use to form Community Cafe, Store and Toilet Facilities. | (Pages 132 - 138) |
| 13. | Allways, Teignmouth Road, Torquay (P/2017/1037/PA)
Replacement dwelling. | (Pages 139 - 145) |
| 14. | Storage Land, Inter-line, Woodland Close, Torquay (P/2017/1066/PA)
Proposed waste storage and recycling facility. | (Pages 146 - 151) |

- 15. Torquay Academy, Cricketfield Road, Torquay (P/2017/1072/R3)** (Pages 152 - 162)
Extension to Torquay Academy, comprising 6no. Classrooms, 3no. Dry changing rooms, associated internal access corridors and 1-to-1 interview/group room. Extension to be 3 storeys in height with facade treatments and layout to match existing Academy building.
- 16. Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
- 17. Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 6 December 2017. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Development Management Committee

13 November 2017

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Doggett, Hill, Manning, Morey, Pentney, Thomas (D) and Tolchard

37. Minute Silence

Members observed a minute's silence as a mark of respect in memory of the late Councillor Roger Stringer.

38. Apologies for absence

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

39. Minutes

The Minutes of the meeting of the Development Management Committee held on 16 October 2017 were confirmed as a correct record and signed by the Chairman.

40. Land Off Brixham Road - Former Nortel Site, Long Road, Paignton (P/2017/0571)

The Committee considered an application to vary the conditions on planning application P/2014/0947/MOA: 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. (Condition 32: Restrictive Goods Condition).

Prior to the meeting, written representations were available to members on the Council's website. At the meeting Jeremy Heath addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- (i) a Condition to secure remediation of the site (including the housing area) to a suitable level for its intended use, in-line with the land uses outlined within the approved indicative Masterplan (Reference 1449-PL-001 Rev A), prior to the first occupation of the retail development;
- (ii) all previous Conditions (as amended by previous S73 applications); and,
- (iii) the provision of a planning obligation to secure the sum of £36,744 as mitigation for the increased impact upon the Western Corridor caused by the additional traffic which would result from the introduction of convenience retail within the development, paid upfront or secured via a Section 106 Legal Agreement.

(**Note:** During consideration of this item Councillor Morey declared a non-pecuniary interest as a member of the Town Centre Regeneration Board.)

41. The Snug, Daphne Close, Torquay (P/2017/0723)

The Committee considered an application for alterations and extension to enclose a stairwell and internal reconfiguration, increasing the number of bedrooms from one to two with parking for two vehicles.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to members on the Council's website. At the meeting Simon Blake addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- (i) the final drafting of conditions being delegated to the Executive Head for Assets and Business Services (to include those set out in the submitted report); and
- (ii) the satisfactory submission of a revised plan for the roof to ensure it is visually consistent with the character of the Conservation area.

42. Land at Barton Road, Torquay (P/2016/1047)

The Committee considered an application for the construction of a new building to provide up to 75 one and two bedroom apartments.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to members on the Council's website. At the meeting Margaret Forbes-Hamilton addressed the Committee against the application and Tom Whild addressed the Committee in support of the application.

Resolved:

Approved subject to the final drafting of conditions being delegated to the Executive Head for Assets and Business Services (to include those listed within the report (which includes the provision of parking to a ratio of no less than 92 spaces for 75 apartments)).

Chairman

Application Number

P/2014/0983

Site Address

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

Case Officer

Mrs Helen Addison

Ward**Description**

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

Update Report December 2017

This application was approved at the Development Management Committee meeting on 14.12.15 subject to successful resolution of technical issues, ecology, completion of a S106 agreement and conditions. An update was subsequently agreed by the DM committee at their meeting in June 2016. It has proved to be complex to agree the contents of the S106 agreement and the applicant has spent considerable time working on how to deliver mitigation for the impact of the development on circl buntings and greater horseshoe bats. A further delay has arisen because of uncertainty in the Council's programme to carry out works to the Brixham Road and Yalberton Road junction. Consequently the decision has not yet been issued.

The application is returned to the Development Management committee for further consideration of the following points;

1. A new Circl Bunting survey report has been submitted by the applicant following further surveys that were carried out between April and August 2017. The original surveys carried out in 2014 and 2015 recorded the presence of 8-9 singing males and 4 singing males respectively. The current survey indicates that 4 territories of circl bunting are present on the site. In the light of this the developer is now proposing to provide a contribution for off site mitigation for 2 or 3 pairs of circl buntings. When the application was originally considered it was agreed by the developer that mitigation would be provided for 8 pairs of circl buntings.
2. Since the resolution to grant conditional planning permission an updated version of the SPD 'Planning contributions and affordable housing' has

- been adopted by the Council. The S106 contributions should be revised to accord with the up to date SPD.
3. The applicant has requested that the area of employment land adjacent to the PMU is excluded from the Section 106 agreement in order that it can be disposed of separately from the main part of the site.
 4. The applicant is of the opinion that if the Council has let the contract to carry out the works to the Yalberton Road junction, a contribution towards these works would not meet the CIL Regulations Test of Lawfulness (set out in Regulation 122 of the CIL Regulations 2010 and NPPF paragraph 204) because the Council has already committed to meet the cost of the works.

Each of these points will be explained further below;

1. Revised Cirl Bunting survey

When the application was considered by the Development Management Committee in December 2015 it was agreed that on site mitigation could be provided for one pair of cirl buntings and off site mitigation would be provided for 7 pairs. Since this time the applicant has been unable to provide officers with sufficient certainty that the off site mitigation can be delivered to protect cirl buntings.

The applicant proposed a mitigation strategy relating to off site mitigation on an area of 19.28 ha that would be favourably managed in the long term for the species by modifying the existing land management regime. The shortcoming of this proposal was that it failed to provide sufficient certainty that the management of the land would be carried out in perpetuity as there would be no realistic recourse available to the Local Planning Authority if the land was not managed in accordance with the agreed strategy.

The applicant has submitted a new survey of the site carried out between April 2017 and August 2017. He refers to guidance from Natural England that ecological surveys should be updated every two years and that the latest survey data should be the basis of decision making.

The Council's ecological consultant has commented on the applicant's submission of an updated cirl bunting strategy that they consider 8 pairs of cirl buntings (territories) should be compensated for in relation to the development and not the suggested 4 pairs. The reduction in numbers (4 pairs, territories in 2017, from 8-9 pairs, territories recorded in 2013 and 2014) is in response to changes in agricultural practices, i.e. the arable element was removed post 2014 and from 2015 onwards used as grassland for silage. Therefore, altering the ecological baseline conditions with sub-optimal cirl bunting habitat. Changes in agricultural practises, such as crop rotation for reasons of pest control and/or disease are often undertaken on a cyclic basis and the result may not favour highly specialised species, such as cirl bunting. By re-instating arable crop production, such as cereals, this would re-address the future lack in numbers within those areas.

A similar comment has been received from the RSPB who are of the opinion that compensation should be provided for at least 8 pairs. They also note that the surveys carried out in 2017 do not accord with the RSPB guidance. The guidance recommends that a survey does not take place between 11.00 and 15.00 but two visits to the application site took place wholly or partly in this period. Also there were two periods of survey time on the application site of insufficient duration being only 15 minutes.

The ciril bunting is a nationally rare and threatened 'priority species' which receives legal protection as a Wildlife and Countryside Act 1981 'Schedule 1 bird'. It is a priority species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The S41 list is used to guide decision makers in implementing their duty under section 40 of the NERC Act to have regard to the conservation of biodiversity.

The species were identified as requiring action under the UK Biodiversity Action Plan. Once a widespread farmland bird, Britain's ciril bunting population is now confined to South Devon with Torbay supporting about 7% of the country's birds.

The Government's policy on biodiversity in the NPPF includes;

- Minimising impacts on biodiversity and providing net gains where possible (paragraph 109)
- Planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure (paragraph 114)
- Promoting the protection and recovery of priority species populations and the preservation, restoration and re-creation of ecological networks and priority habitats (paragraph 117); and
- Conserving and enhancing biodiversity by adherence to the mitigation hierarchy. This approach is set out in the first bullet point in paragraph 118 of the NPPF; which states:

If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy NC1 in the Torbay Local Plan 2012-30 states "where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain in biodiversity." It continues "development that risks harm to Ciril Bunting habitats and territories will only be permitted where ... the impacts can be mitigated in full".

When the application was originally considered in December 2015 the applicant agreed with the Council that compensation for 8 pairs of ciril buntings would be provided. This was based on evidence that he submitted with the planning

application. It is entirely probable that changing the method of farming the land would reduce the number of curlew buntings on the site. The current offer from the applicant is to provide on site mitigation for one pair and off site compensation for 2 to 3 pairs. In considering whether to agree to a reduced level of compensation Government advice in the NPPF and Local Plan policy is relevant. In this case it is clear that when planning permission was applied for the site supported 8 territories. This should be the baseline against which the development is assessed. It is known that the site supported 8 territories at the time of the application and this is the level of compensation/mitigation that should be provided. Policy NC1 requires the impacts of development to be mitigated in full and in order to achieve this position compensation/mitigation for 8 pairs should be provided as advised by the Council's ecological consultant and the RSPB.

2. S106 contributions

Since the application was previously considered the Council has adopted the SPD 'Planning contributions and affordable housing' February 2017. Since the decision on the application has not been issued it is appropriate for the decision to accord with the current SPD.

The following will be included in the S106 agreement:

Site Acceptability

- o Re-route gas main as part of Brixham Road Highway Improvement Works = £360k
- o Works to Yalberton Road = £155k
- o Curlew bunting mitigation/compensation strategy – yet to be agreed
- o Monitoring contribution to confirm ecological mitigation/compensation is effective – to be agreed
- o Waste Management = £16,320 @ £85 / unit
- o Conversion and long term management and maintenance for off site bat barn.

In accordance with the adopted SPD 'Planning contributions and affordable housing' February 2017 the following contributions towards sustainable development infrastructure are sought:

Affordable Housing

- o Up to 58 affordable dwellings (30%) to include a third social rent, a third affordable rent and a third intermediate.

The following sustainable development contributions have been estimated, as the application is in outline meaning the precise floor areas of the dwellings are unknown at this stage - a dwelling size average of 80-108 sq m has been used below for the upper limit of 192 dwellings; the s106 agreement shall include a

schedule to calculate the precise contributions when the floor areas are known following submission of reserved matters.

Sustainable Development (based on 134 open market dwellings, 16 social rent, 16 affordable rent, 16 intermediate all units 80-108 sq m)

Sustainable Transport £tbc

Education £tbc

Public open space, sports and recreation £tbc

Lifelong learning £tbc

TOTAL £tbc

Mitigation:

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

- o Social rent & affordable rent dwellings - 100% discount to SD contributions, not waste and other site acceptability matters.
- o Intermediate dwellings - 50% discount to SD contributions, not waste and other site acceptability matters.
- o Sustainable Transport contribution for employment uses - 100% discount due to 'Mitigation for Economic Prosperity (jobs created)'
- o Greenspace & Recreation cost per person £371; it does not include 'Equipped facilities for young people' and 'Greenspace', as these are indicated to be provided onsite. Effective cost per dwelling 80 to 108 sqm £964 per dwelling)

3. Exclusion of part of the employment land from the S106 agreement

The application site comprises two parcels of land. The main site to the west adjoining Yalberton Road is 10.16ha in area, while the smaller site to the east between Torbay Pharmaceuticals and Yannons Farm local centre is 1.31ha. The total site area is 11.47ha. The applicant has advised that he would like to be able to dispose of the smaller part of the employment land (1.115ha) without being bound by the requirement that the land is used for B1 or B8 purposes and it is actively marketed as employment land.

There is no objection to this request as the majority of land identified for employment purposes (1.187ha) will be subject to the S106 agreement. All of this remaining employment land will be subject of a condition linking it delivery to delivery of houses on the site.

4. That the contribution for works to the Yalberton Road and Brixham Road junction and the Yalberton Road works are unlawful

The proposed development would be accessed from Yalberton Road. In order for the junction to have sufficient capacity to cater for the additional traffic generated by the development it is necessary for the junction to be improved. When the

application was considered by DM Committee it was the Council's intention to carry out this work but there was a shortfall in the budget of £360k to move a gas main. The applicant agreed to pay this shortfall in order that the works could go ahead.

The applicant is of the opinion that as the Council is committed to carrying out the junction improvement works it is unlawful to request the contribution of £360k as it is no longer necessary to make the development acceptable.

At the current time the Council has not signed the contract for the works to be carried out as there remains a shortfall in the budget to cover the cost of the alterations to the gas main and therefore the Council is not committed to carrying out this work. The position has not changed since the application was originally considered in that a contribution from the applicant is still required in order for the highway improvement works to be carried out.

Torbay Local 2012-30 and Paignton Neighbourhood Plan

Since the previous consideration of this application the Torbay Local Plan 2012-30 has been adopted. In the plan the application site is predominantly located within a future growth area. Policy SS2 supports delivery of high quality residential and employment development within the area. Policy SDP3 promotes mixed use development on the site. Although part of the site is within the Countryside Zone and the proposed development would not comply with Policy C1 it is material to consider that Members have previously granted consent for development on the site, and that the delivery of housing and employment land are further material considerations. Any adverse impact to the character of this part of the site would be outweighed by the benefits of the development in delivering mixed use development as promoted by the Torbay Local Plan 2012-30.

The Paignton Neighbourhood Plan has been submitted to the Council for consultation which is currently being carried out. Due to its early stage it should be given little weight in the decision making process. The application site has no designation in the plan. General Policy PNP 1 area wide policy is applicable which 'gives priority to jobs lead growth' and Annex 2 to Policy PNP 1 (Design Guidelines) which seeks to achieve good design through points 1 to 38.

Recommendation on four issues raised

1. Cirl bunting mitigation is required for 8 pairs where on site mitigation can be provided for one pair and off site compensation is required for 7 pairs. If the applicant does not agree this position within one month of the committee date the application should be refused.
2. S106 contributions to be revised in accordance with the current SPD
3. Exclusion of the 1.115ha parcel of employment land from the S106 agreement is acceptable
4. The £360k contribution for improvement works to the junction of Yalberton Road and Brixham Road is required.
5. All other s.106 obligations are to remain as set out in the original report.

Update Report June 2016

This application was approved at the Development Management committee meeting on 14.12.15 subject to successful resolution of technical issues, ecology, completion of a S106 agreement and conditions within six months of the date of the meeting. During this time work has continued on resolving the outstanding matters, but it has not been possible to resolve all issues within the six month deadline, as a number are complex. Therefore a further extension of time is requested until 31st August 2016. The applicant is agreeable to this.

It has been necessary to make minor revisions to the content of the S106 agreement and Members agree that these are acceptable is requested. These revisions are;

- The applicant has agreed to provide a policy compliant level of affordable housing at 30%. It was originally proposed that this should include up to 5% self build plots. The provision of affordable self build plots has not proved possible to deliver due to a lack of certainty from housing associations and therefore it is proposed to delete this requirement. The affordable housing requirement to remain at 30%.

-Development of the site must allow for pedestrian, cycle and public transport links to the Western Power Distribution site as well as the neighbouring site at the former Yannons Farm

-Provision of an off-site bat barn in accordance with the Ecological Design Strategy submitted in support of the application

-Inclusion of provisions to ensure that no less than 2.09ha of the site is available for employment purposes and to ensure that the employment land is actively marketed

-£5,000 to make and implement a Traffic Order to extend the 30mph speed limit on Yalberton Road

Original Report to DMC 14.12.15

Executive Summary/Key Outcomes

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

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

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

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

At the time of writing this report the final comments of the Local Highway Authority are awaited to confirm that the proposed access arrangements are safe and deliverable, and will not have a severe impact on the local highway network, including the capacity of the Brixham Road/Yalberton Road junction. Initial indications are that the principle of the access arrangements along Yalberton Road is acceptable, subject to the proposed highway improvement works being carried out, but the proposed fallback option proposed is unacceptable, due to safety

concerns with the proposed pedestrian crossing on Yalberton Road adjacent to the Sainsburys petrol filling station. An update will be provided by officers at committee. A shortfall in funding to deliver the highway improvement works, to the junction of Brixham and Yalberton Roads, will need to be paid for by the developers and secured in the s106, together with other s278 funding for highway works along Yalberton Road outside the site boundary.

Insufficient information has been submitted to enable the Council to carry out a Habitats Regulations Screening Assessment of the proposed development, however further information is being prepared and is expected to be submitted by the applicants shortly. The Council's external ecological adviser on the South Hams SAC has been working with the applicants' ecologists to ensure that this information is satisfactory. If a Habitats Regulations Assessment has not been carried out by the time of the committee, or if an Appropriate Assessment is required, officers will recommend the application be deferred to provide more time to resolve these matters. A detailed bird bunting mitigation/compensation strategy is also required before planning permission is granted. The RSPB currently object to the application, due to inadequate information in this regard. It is understood that a strategy is being prepared by the applicants' ecologists to provide compensation on the field to the south of the site and other offsite land at Cockington and off Long Road. An update will be provided by officers at committee.

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

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

Officers recommend approval of the revised application, subject to the successful resolution of the technical issues above. The principle of developing the site for housing and employment use accords with the Future Growth Area in the new Local Plan and will go a long way in helping to meet local housing needs and economic growth. Whilst officers will provide Members with a full update at

committee, should any technical matters remain outstanding, officers will seek Members' approval to delegate these to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee for full reconsideration. The only exception to this is if a Habitats Regulations Assessment has not been carried out, or an Appropriate Assessment is required, in which case officers will recommend deferral. In effect, Members will be asked to approve the application in principle; however, Members could also decide to defer the application or refuse it if they consider it does not fulfill the policy objectives of the new Local Plan.

Recommendation

Conditional approval; subject to the successful resolution of technical issues relating to access arrangements, ecology mitigation/compensation and s106 legal agreement relating to timing of provision of employment development, timing of highway improvement works and occupation, secure 30% affordable housing, including up to 5% self build plots, and necessary contributions within 3 months of the date of this committee or the application be reconsidered in full by the committee; conditions listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Executive Director of Operations and Finance.

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

Statutory Determination Period

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

Site Details

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

Both parcels of land comprise agricultural fields bounded by hedgerows. The west site includes an important group of remnant elm trees and a derelict stone barn. In addition, overhead power lines cross the west site to the north. Both sites have sloping topographies. The west site has a north facing slope that rises by about 50 metres to a high point near the top of the hill to the southeast. However, the west site excludes a large part of the field near the top of the hill, which is proposed as a 'high meadow for ecological mitigation and biodiversity'. A footpath is proposed

around the meadow and the high point is within this strip of land. The bulk of the west site rises by about 35 metres to a point further down the slope. The topography is steeper to the west, with a gradient of about 1:7. In comparison, the east site has a consistent slope of 1:12, rising 13.5 metres north to south.

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

The smaller site to the east is bounded by Sainsburys car park to the north, Yannons Local Centre and residential properties to the east, Wilkins Drive (with newly constructed housing beyond) to the south, and Torbay Pharmaceuticals to the west. This site has an existing access to the north via a right of way to the rear of Sainsburys, which leads to Yalberton Road.

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

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

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

Detailed Proposals

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

The application has been amended during the course of the application. This has

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

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

- increased employment floorspace;*
- revised site layout (illustrative) to ensure noise issues are overcome and reuse of the allocated waste site at Yalberton Tor Quarry is not prejudiced;*
- improved connections between the site and Yannons Farm development;*
- biodiversity enhancements and ecological off-setting; and*
- delivery of junction improvements on Brixham Road.*

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

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

Details of layout, scale, appearance and landscaping are reserved matters. However, the applicants have provided an illustrative masterplan indicating the broad layout of the proposed development. The smaller east site is indicated as employment development in its entirety. The main site to the west is split into a number of development parcels. The land adjoining Yalberton Road is indicated as employment development, while the land to the south further up the slope is indicated as residential development. A linear open space, including a play area is indicated to the north of the site and a community orchard is indicated to the south adjacent to the existing derelict barn. The barn is indicated as being retained for ecological habitat. An existing overgrown agricultural track leading up to the barn will be retained and enhanced as a dark bat corridor. A circular access route is indicated, which cuts through the bat corridor in two places. This is also shown traversing the steep part of the site to the west. A pond is indicated in the northwest corner to provide sustainable drainage. As previously explained, a large part of the field to the south of the site is not included in the application site boundary. It is proposed as a high meadow for ecological mitigation and biodiversity, with an area set aside for mixed native woodland. A recreational footpath is proposed around this area, with a footpath link to the adjoining Hilltop Park in the Yannons Farm development.

Summary Of Consultation Responses

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

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

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

Previously advised that Yalberton Tor Quarry could conceivably become an

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

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

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

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

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

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

cirl buntings.

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

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

No development shall commence until:

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

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

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

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

Torbay Development Agency: No response.

Arboricultural Officer: The access proposals are suitable for approval on arboricultural merit. Mitigation tree planting should be sought in the realigned Devon hedgebank. The indicative access road south of the proposed roundabout abuts an important group of remnant elm trees, which should be retained and regarded as significant constraints in the future layout. The road, including footways and associated service runs, should be aligned to avoid disturbance to

the root protection areas of these trees. A Landscape and Ecological Management Plan (LEMP) must be secured following agreed landscape design of street trees, groups, shrub masses, etc. The detailed landscaping scheme should address the requirements of the rural location against the need to provide sustainable trees of seasonal interest. Trees should be positioned at arrival points and planted in hedgerows. The proposed orchard requires detailing out at an early stage. The detailed landscaping plan should integrate use of storm water runoff to water tree pits.

The siting of the emergency access is acceptable, subject to a method statement to prevent damage to rooting zones of the lime tree. Additionally any widening should be achieved by works to the pillar away from the stem.

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

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

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

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

of £394 per person, as 'equipped facilities for young people' and 'greenspace' are indicated to be provided onsite. A Landscape and Ecological Management Plan (LEMP) must be secured.

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

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

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

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

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

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

Summary Of Representations

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

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

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

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

site

- Access and mix proposals will result in adverse impacts to residential and conflicts with business uses
- Strategic landscaping belt required to west
- Foul and surface water drainage proposals required before decision made
- Access to employment on west site should be from north and access to residential should be from south
- Overhead power lines should be undergrounded
- Allotments should be provided and proposed green infrastructure secured
- Green lane link should be provided
- Impacts on Stoke Gabriel, including drainage and traffic on Yalberton Road
- Proposed 5.5 metre road width along Yalberton Road to Alders Way is not wide enough for existing and proposed traffic, including HGVs - should be 7.2 metres wide
- Access proposals along Yalberton Road lack detail and clarity - current proposals will create dangerous bottleneck
- Impacts on drainage and road infrastructure - cycling will be more hazardous.

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

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

Alders Way

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

Relevant Planning History

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

Key Issues/Material Considerations

The key issues are:

1. *The Principle of the Development*
 2. *Noise and Amenity Issues*
 3. *Landscape Impact*
 4. *Access and Impact on Highways*
 5. *Ecology Impacts*
 6. *Impact on Trees*
 7. *Drainage and Flood Risk*
 8. *Affordable Housing*
 9. *Archaeology*
-
1. *The Principle of the Development*

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

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

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

development to be delivered by a trigger point to be agreed relating to the delivery of the new housing.

2. Noise and Amenity Issues

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

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

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

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

3. Landscape Impact

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

site extending into the Countryside Zone. The green infrastructure indicated on the illustrative masterplan should be secured in order to soften and integrate the development into the rural landscape setting. These matters will need to be taken into account at reserved matters stage.

4. Access and Impact on Highways

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

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

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

The application should not be permitted until details of safe access arrangements that will not have a severe impact on the local highway network have been provided. If this information has not been provided to the satisfaction of the Local

Highway Authority by the time of the committee, officers will seek Members' approval for this matter to be delegated to officers to resolve with the applicants within three months of the committee, or the application will be brought back to committee to be reconsidered in full.

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

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

5. Ecology Impacts

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

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

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

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

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

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

6. Impacts on Trees

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

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

Therefore, the proposals are considered to accord with Policy L9 of the current

Local Plan and Policy C4 of the new Local Plan, subject to conditions to secure: a Tree Protection Plan and Arboricultural Method Statement to protect existing trees during construction, detailed landscaping proposals and a Landscape and Ecological Management Plan (LEMP). An informative should be added to the permission if the application is approved, recommending early engagement with the Council's Arboricultural Officer when landscaping proposals are drawn up for reserved matters.

7. Drainage and Flood Risk

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

8. Affordable Housing

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

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

9. Archaeology

The Senior Historic Environment Officer has identified the potential for previously

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

S106/CIL -

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

Site Acceptability

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

Affordable Housing

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

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

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

TOTAL = £803,234

Administration/Monitoring of S106

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

Mitigation:

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

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

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

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

Justifications:

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

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

A civil bunting mitigation/compensation strategy must be prepared before granting

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

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

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

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

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

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

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

on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

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

Status:

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

Conclusions

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

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

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

A detailed cirl bunting mitigation/compensation strategy is required before the application is permitted. The RSPB currently objects to the application, due to inadequate information in this regard. The applicants are in the process of producing this strategy. If a satisfactory cirl bunting mitigation/compensation

strategy has not been submitted by the time of the committee, officers will seek delegated authority to resolve this matter with the applicants within three months of committee, or the application will be brought back to committee for full reconsideration.

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

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

Condition(s)/Reason(s)

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

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

Relevant Policies

SS2 - *Future Growth Areas*
 SS3 - *Presumption in favour of sustainable dev*
 SS4 - *The economy and employment*
 SS5 - *Employment space*
 SS6 - *Strategic transport improvements*
 SS7 - *Infrastructure, phasing and employment*
 SS8 - *Natural Environment*
 SS9 - *Green Infrastructure*
 SS10 - *Conservation and Historic Environment*
 SS11 - *Sustainable Communities Strategy*
 SS12 - *Housing*
 SS13 - *Five Year Housing Land Supply*
 SS14 - *Low Carbon and Climate Change*
 SDP1 - *Paignton*
 SDP3 - *Paignton North and Western area*
 TA1 - *Transport and accessibility*

TA2 - Development access
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity
H1LFS - Applications for new homes
H2LFS - Affordable Housing
H3LFS - Self build affordable housing
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
SC4 - Sustainable food production
SC5 - Child poverty
ES1 - Energy
ER1 - Flood Risk
ER2 - Water Management
W1LFS - Waste hierarchy
W2LFS - Waste audit
W3LFS - Existing waste management facilities
M3LFS - Preserving local building stone

Application Number

P/2016/0625

Site Address

Hoburne Ltd
Grange Court Holiday Centre
Grange Road
Paignton
TQ4 7JP

Case Officer

Mr Alexis Moran

Ward

Goodrington With Roselands

Description

Redevelopment of touring section (Hill View) to holiday static caravans with 12 month holiday season.

Executive Summary/Key Outcomes

The development site, relates to an area known as Hill View which is located to the west of Grange Court Holiday Centre, Grange Road, Paignton. The site area is approximately 1.4ha. The wider site is an existing 22 hectare acre holiday park.

It is surrounded by woodland, to the south and west, the areas to the north and east form part of the rest of the holiday camp.

The site is designated as being within a Core Tourism Investment Area in the Torbay Local Plan. It lies approximately 6km (as a straight line) from the maternity roost at Berry Head and is therefore within the 'Sustenance Zone' for the Berry Head Component of the South Hams SAC and lies within a 'Strategic Flyway' that runs between Paignton Zoo and the coast.

The application seeks permission for the addition of 29 static caravans in an area used for touring caravans. Two types of static caravan are proposed, one which is 12m long by 6.1m wide and one which is 12m long by 4.3m wide. Each pitch would be sited on a concrete hardstanding base with two parking spaces. The parking spaces and internal access road would be finished with tarmac. The proposal will require the removal of 10 trees.

The proposal is deemed to cater for the current demand for improved 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 and accords with the site's designation in the Local Plan as a Core Tourism Investment Area.

The site will not be highly visible from the wider area as it is well screened by trees and woodland to the south and east and is integrated into the existing static

caravan layout on the site from the north and east. Internally the character of the existing area will inevitably be altered by the addition of the static caravans which will be permanent fixtures. However as the site will not be highly visible in the wider area it is not considered that it would be detrimental to the character of the holiday park.

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 with final drafting of conditions to be delegated to the Executive Head for Assets and Business Services.

Statutory Determination Period

The decision on this application was due on 26.06.2016. Due to the requirement for updated ecological and arboricultural information and an HRA the proposal has exceeded this date. The applicant has agreed to an extension of time.

Site Details

The site relates to Grange Court Holiday Centre (Hill View), Grange Road, Paignton. The total site area occupied by the holiday camp is 22ha. The site is accessed by a road connected to the centre of the holiday park.

The development site, relates to an area known as Hill View which is located to the west of Grange Court Holiday Centre, Grange Road, Paignton. The site area is approximately 1.4ha. It is surrounded by woodland to the south and west and is integrated into the existing holiday park with pitches and static caravans to the north and east.

The site is designated as being within a Core Tourism Investment Area in the Torbay Local Plan.

Detailed Proposals

The application seeks permission for the addition of 29 static caravans in an area used for touring caravans. Two types of static caravan are proposed, one which is 12m long by 6.1m wide and one which is 12m long by 4.3m wide.

Each pitch would be sited on a concrete hardstanding base with two parking spaces. The parking spaces and internal access road would be finished with tarmac.

The extent of the hardstanding surface would not encroach closer to the woodland

boundary than the existing infrastructure.

The static caravans are intended to be operated for a holiday use for 12 months of the year.

Summary Of Consultation Responses

Drainage Engineer - No objection subject to the implementation of the submitted drainage scheme.

Arboricultural Officer - Recommends approval on arboricultural merit subject to the scheme being implemented in accordance with the submitted details.

Highways - No objection.

Ecological consultant - Subject to the incorporation of suitable mitigation measures the HRA Screening Assessment advises that the development is not likely to have a Significant Effect on the South Devon SAC alone or in combination with other proposals or projects.

Summary Of Representations

None.

Relevant Planning History

P/2016/0633 - Redevelopment Of touring section (Woodland Glade) to holiday static caravans for 12 month holiday season, the proposal is for 29 static caravans; Pending consideration.

Key Issues/Material Considerations

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

Visual appearance

The site is well screened by woodland to the south and west boundaries by existing trees and woodland. The addition of permanent structures in this part of the site would alter its character, however it is considered to be a suitable form of development within the holiday park and would not be visually detrimental when viewed from the wider area. The proposal would result in the loss of 10 trees, some for safety reasons and some to allow for the implementation of the scheme. This loss can be mitigated by a landscaping scheme which includes replacement trees.

Tourism

The site is within a Core Tourism Investment Area. 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. Torbay's 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 as previously stated a demand for improved holiday accommodation is apparent and recent years have seen a reduced demand for touring pitches.

It is considered that the proposed static caravans 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.

No details on whether the proposed caravans will be let or sold have been submitted. If they are to be sold, in order to encourage maximum levels of occupancy it is good practice to ensure that the holiday park operator promotes a sub letting service. This can be achieved by imposing a condition to this effect on the grant of planning permission.

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 within a Greater Horseshoe Bat 'Strategic Flyway' that runs between Paignton Zoo and the coast. Accordingly Torbay Council undertook an HRA. The HRA Screening Assessment advised that the development is not likely to have a Significant Effect on the South Devon SAC alone or in combination with other proposals or projects subject to the following mitigation measures for greater horseshoe bats which should be secured through the imposition of conditions:

- o Provision of a Dark Areas Map/Plan to show areas of the sites that will remain at or below 0.5 lux.
- o Provision and implementation of a Construction Environmental Management Plan (CEMP) to address all necessary construction related mitigation including that required to protect breeding birds, reptiles and badgers (e.g. in accordance with BS42020; clause 10);
- o Provision and implementation of an Ecological Management and Enhancement Plan (EMEP) to secure long-term effective habitat management on site (e.g. BS42020; clause 11.1). This plan should also provide details for lighting design and installation (in accordance with the BSG recommendations in the EclA on page 23) to demonstrate that the proposed development can be implemented so that adequate areas that are to remain dark (e.g. with light levels less than 0.5 lux) can be achieved effectively.

Highways

Policy TA3 (Parking requirement) states that 1 parking space per chalet/lodge should be provided. The submitted layout plans confirms that two spaces per static caravan will be available which confirms that this standard will be met.

Drainage

The site is partially within flood zones 2 & 3. The proposed surface water system comprises of a combination of pipe networks and various SuDS features to ensure that surface water run-off from impermeable areas is properly managed. A drainage strategy and hydraulic calculations for the development have been submitted and deemed to be acceptable.

The Council's Drainage Engineer has confirmed that providing the development is constructed in accordance with the submitted drainage strategy there would be no objections on drainage grounds to planning permission being granted. It is considered that a condition confirming this is necessary.

Landscaping

The proposal would result in the loss of 10 trees, the Council's Arboricultural Officer has not objected to this loss. There is however the need to create a detailed landscape plan to address tree loss. It is considered that this should be required via a landscaping condition. The proposal is deemed to comply with Policy C4 in principle and mitigation planting has the potential to improve the natural features

of the site.

The land to the west and south of the site is allocated as being within an Urban Landscape Protection Area (ULPA). The site is outside of the Urban Landscape Protection Area and it is not considered that the proposal would undermine it as an open landscape character. The proposal; would comply with Policy C5.

There is an opportunity for a landscaping scheme could strengthen the character of the boundary of the site and the ULPA.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights.

In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

CIL

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

S106

A contribution towards monitoring the holiday use of the units for a period of 5 years is required which equates to £720.00 based on 4 hours of monitoring per year has been paid via a unilateral undertaking.

Proactive Working

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

The proposed development would be consistent with Policies TO1, NC1, TA3, ER1, ER2 and C5 of the Torbay Local Plan 2012-203. 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;

- The works shall be undertaken in accordance with the submitted Tree protection plan and 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 and formative pruning.
- Landscaping to be implemented and retained.
- Provision of a Dark Areas Map/Plan to show areas of the sites that will remain at or below 0.5 lux.
- Provision and implementation of an Ecological Management and Enhancement Plan (EMEP) to secure long-term effective habitat management on site.
- Provision and implementation of a Construction Environmental Management Plan (CEMP) to address all necessary construction related mitigation including that required to protect breeding birds, reptiles and badgers.
- 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.
- The development shall be undertaken in accordance with the submitted drainage details.
- The approved accommodation shall be for holiday use only and not for permanent residential occupation.
- The maximum number of 29 static caravans shall be stationed on the application site at any one time and in accordance with the approved layout.
- Details of all boundary treatments.
- Details of all external lighting.
- Details of external materials.
- Provision of a subletting service.
- Green travel packs.

Relevant Policies

TO1 - Tourism, events and culture

DE1 - Design
C5 - Urban landscape protection areas
NC1LFS - Biodiversity and Geodiversity
ER1 - Flood Risk
ER2 - Water Management
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape

Application Number

P/2016/0633

Site Address

Hoburne Ltd
Grange Court Holiday Centre
Touring Section (Woodland Glade)
Grange Road
Paignton
TQ4 7JP

Case Officer

Mr Alexis Moran

Ward

Goodrington With Roselands

Description

Redevelopment of touring section (Woodland Glade) to holiday static caravans with 12 month holiday season

Executive Summary/Key Outcomes

The development site, relates to an area known as Woodland Glade which is located to the south of Grange Court Holiday Centre, Grange Road, Paignton. The site area is approximately 1.5ha. The wider site is an existing 22 hectare acre holiday park.

It is surrounded by woodland, to the south, set up at a higher level, are properties in Fairlawns Park and to the east there is a golf driving range.

The site is designated as being within a Core Tourism Investment Area in the Torbay Local Plan. It lies approximately 6km (as a straight line) from the maternity roost at Berry Head and is therefore within the 'Sustenance Zone' for the Berry Head Component of the South Hams SAC and lies within a 'Strategic Flyway' that runs between Paignton Zoo and the coast.

The application seeks permission for the addition of 29 static caravans in an area used for touring caravans. Two types of static caravan are proposed, one which is 12m long by 6.1m wide and one which is 12m long by 4.3m wide. Each pitch would be sited on a concrete hardstanding base with two parking spaces. The parking spaces and internal access road would be finished with tarmac. The proposal will require the removal of 11 trees.

The proposal is deemed to cater for the current demand for improved 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 and accords with the site's designation in the Local Plan as a Core Tourism Investment Area.

The site will not be highly visible from the wider area as it is set down at a lower

level than the land around it and is well screened by trees and woodland. Internally the character of the existing area will inevitably be altered by the addition of the static caravans which will be permanent fixtures. However this impact can be minimised by a landscaping scheme which would address the loss of the 11 trees and which integrates with the layout and existing landscape.

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 with final drafting of conditions to be delegated to the Executive Head for Assets and Business Services.

Statutory Determination Period

The decision on this application was due on 26.06.2016. Due to the requirement for updated ecological and arboricultural information and an HRA the proposal has exceeded this date. The applicant has agreed to an extension of time.

Site Details

The site relates to Grange Court Holiday Centre (Woodland Glade), Grange Road, Paignton. The total site area occupied by the holiday camp is 22ha. The site is accessed by a road connected to the centre of the holiday park.

The development site, relates to an area known as Woodland Glade which is located to the south of Grange Court Holiday Centre, Grange Road, Paignton. The site area is approximately 1.5ha. It is surrounded by woodland, to the south, set up at a higher level, are properties in Fairlawns Park and to the east there is a golf driving range.

The site is designated as being within a Core Tourism Investment Area in the Torbay Local Plan.

Detailed Proposals

The application seeks permission for the addition of 29 static caravans in an area used for touring caravans. Two types of static caravan are proposed, one which is 12m long by 6.1m wide and one which is 12m long by 4.3m wide.

Each pitch would be sited on a concrete hardstanding base with two parking spaces. The parking spaces and internal access road would be finished with tarmac.

The extent of the hardstanding surface would not encroach closer to the woodland

boundary than the existing infrastructure.

The static caravans are intended to be operated for a holiday use for 12 months of the year.

Summary Of Consultation Responses

Drainage Engineer - No objection subject to the implementation of the submitted drainage scheme.

Arboricultural Officer - Recommends approval on arboricultural merit subject to the scheme being implemented in accordance with the submitted details.

Highways - No objection.

Ecological Consultant - Subject to the incorporation of suitable mitigation measures the HRA Screening Assessment advises that the development is not likely to have a Significant Effect on the South Devon SAC alone or in combination with other proposals or projects.

Summary Of Representations

None.

Relevant Planning History

P/2016/0625 - Redevelopment Of touring section (Hill View) to holiday static caravans for 12 month holiday season, the proposal is for 29 static caravans; Pending consideration

Key Issues/Material Considerations

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

Visual appearance

The site is well screened on all boundaries by existing trees and woodland. The proposal would result in the loss of 11 trees however it is not considered that this would significantly open up the site visually from the wider area. There is also the opportunity to strengthen the exciting boundary planting through the submission of landscaping details via condition.

As the properties in Fairlawns Park are sited at a significantly higher level than the site, it is not considered that the addition of the static caravans would be detrimental to their outlook. The relationship between these properties and the static caravans would be similar to the current relationship with the touring caravans that use the site. The proposal is deemed to comply with Policies DE1 & DE3.

Tourism

The site is within a Core Tourism Investment Area. 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. Torbay's 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 as previously stated a demand for improved holiday accommodation is apparent and recent years have seen a reduced demand for touring pitches.

It is considered that the proposed static caravans 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.

No details on whether the proposed caravans will be let or sold have been submitted. If they are to be sold, in order to encourage maximum levels of occupancy it is good practice to ensure that the holiday park operator promotes a sub letting service. This can be achieved by imposing a condition to this effect on the grant of planning permission.

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 within a Greater Horseshoe Bat 'Strategic Flyway' that runs between Paignton Zoo and the coast. Accordingly Torbay Council undertook an HRA. The HRA Screening Assessment advised that the development is not likely to have a Significant Effect on the South Devon SAC alone or in combination with other proposals or projects subject to the following mitigation measures for greater horseshoe bats which should be secured through the imposition of conditions;

- o Provision of a Dark Areas Map/Plan to show areas of the sites that will remain at or below 0.5 lux.
- o Provision and implementation of a Construction Environmental Management Plan (CEMP) to address all necessary construction related mitigation including that required to protect breeding birds, reptiles and badgers (e.g. in accordance with BS42020; clause 10);
- o Provision and implementation of an Ecological Management and Enhancement Plan (EMEP) to secure long-term effective habitat management on site (e.g. BS42020; clause 11.1). This plan should also provide details for lighting design and installation (in accordance with the BSG recommendations in the EcIA on page 23) to demonstrate that the proposed development can be implemented so that adequate areas that are to remain dark (e.g. with light levels less than 0.5 lux) can be achieved effectively.

The submitted ecological appraisal for this site advises that a badger sett was located within the woodland. However it states that the sett will not be affected by the scheme as the woodland provides an adequate buffer and would mitigate the effects of increased human disturbance. It is recommended that measures to protect badgers from accidental injury are adopted as part of a submitted EMEP.

Highways

Policy TA3 (Parking requirement) states that 1 parking space per chalet/lodge should be provided. The submitted layout plans confirms that two spaces per static caravan will be available which confirms that this standard will be met.

Drainage

The site is partially within flood zones 2 & 3. The proposed surface water system comprises of a combination of pipe networks and various SuDS features to ensure that surface water run-off from impermeable areas is properly managed. A drainage strategy and hydraulic calculations for the development have been submitted and deemed to be acceptable.

The Council's Drainage Engineer has confirmed that, providing the development is constructed in accordance with the submitted drainage strategy, there would be no objections on drainage grounds to planning permission being granted. It is considered that a condition confirming this is necessary.

Landscaping

The proposal would result in the loss of 11 trees, the Council's Arboricultural Officer has not objected to this loss. There is however the need to create a detailed landscape plan to address tree loss and integrate the proposed development into the existing landscape. It is considered that this should be required via a landscaping condition. The proposal is deemed to comply with Policy C4 in principle and mitigation planting has the potential to improve the natural features of the site.

The land to the north, west and south of the site is allocated as being within an Urban Landscape Protection Area (ULPA). The site is outside of the Urban Landscape Protection Area and it is not considered that the proposal would undermine it as an open landscape character. The proposal would comply with Policy C5.

There is an opportunity for a landscaping scheme to strengthen the character of the boundary of the site and the ULPA.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights.

In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act – In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

CIL

The CIL liability for this development is Nil as the CIL rate for this type of

development is Nil and therefore no CIL is payable.

S106

A contribution towards monitoring the holiday use of the units for a period of 5 years is required which equates to £720.00 based on 4 hours of monitoring per year has been paid via a unilateral undertaking.

Proactive Working

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

The proposed development would be consistent with Policies TO1, NC1, TA3, ER1, ER2 and C5 of the Torbay Local Plan 2012-203. 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;

- The works shall be undertaken in accordance with the submitted Tree protection plan and 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 and formative pruning.
- Landscaping to be implemented and retained.
- Provision of a Dark Areas Map/Plan to show areas of the sites that will remain at or below 0.5 lux.
- Provision and implementation of an Ecological Management and Enhancement Plan (EMEP) to secure long-term effective habitat management on site.
- Provision and implementation of a Construction Environmental Management Plan (CEMP) to address all necessary construction related mitigation including that required to protect breeding birds, reptiles and badgers.
- 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.
- The development shall be undertaken in accordance with the submitted

- drainage details.
- O The approved accommodation shall be for holiday use only and not for permanent residential occupation.
- O The maximum number of 29 static caravans shall be stationed on the application site at any one time and in accordance with the approved layout.
- O Details of all boundary treatments.
- O Details of all external lighting.
- O Details of external materials.
- O Provision of a subletting service.
- O Green travel packs.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

TO1 - Tourism, events and culture

C4 - Trees, hedgerows and natural landscape

C5 - Urban landscape protection areas

NC1LFS - Biodiversity and Geodiversity

ER1 - Flood Risk

ER2 - Water Management

TA3 - Parking requirements

Application Number

P/2017/0571

Site Address

Land Off Brixham Road - Former Nortel Site
Long Road
Paignton
TQ4 7BL

Case Officer

Mr Scott Jones

Ward

Blatchcombe

Description

(Variation of conditions on planning application P/2014/0947/MOA; As amended by S73 applications P/2016/1372 and P/2017/0123): 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. (Condition 32: Restrictive Goods Condition).

Update Addendum December 2017

Members considered this application at the November Development Management Committee and resolved approval to the amendment of Condition 32 to permit the sale of convenience (food) retail within a unit of up to 1486sqm. This was in accordance with the recommendation of officers which concluded that, on-balance, the proposal was acceptable when weighing up the failure of the sequential test and concern on likely retail impact upon Paignton town centre taking into account other material considerations.

A key material consideration and adjudged benefit considered was the commitment by the applicant to remediate and prepare the site for the future intended uses (as shown within the original submitted masterplan that supported the outline application) prior to first use of any of the retail units.

The outline consent granted permission for up to 255 dwellings, and ensuring that the site was remediated and ready for development in the near future would contribute to the delivery target of 495 houses per year in Torbay as specified in Policy SS13. This commitment, to be secured by a condition, was judged to be a material benefit as a remediated site would be a more attractive proposition for prospective house-builders, thereby helping to speed-up housing delivery on the site.

Following the November committee resolution the applicant has come back to the

Authority informing us that an element of the site (approximately 20% of the wider site and an area that is likely to provide around 32% of the housing development, as indicated within the outline masterplan) is under lease to South Devon College ('SDC') until September 2021. As a result, the applicant is concerned that the condition agreed by DMC in November will prevent occupation of any of the retail units until some time after September 2021, meaning that the work to secure a viable retail element would be seriously prejudiced.

The applicant has therefore requested that the Authority consider an amendment to the condition agreed by DMC in November which would permit a phased approach to the remediation and groundworks. The amended approach would allow occupation of the retail units when that part of the site that is not leased to SDC has been remediated and groundworks completed. The land leased to SDC would be remediated and the groundworks to it completed after the lease to SDC comes to an end.

The applicant considers that the proposed amended condition is unlikely to impact the prompt delivery of housing as there is sufficient land unaffected by the lease to deliver around 160 houses which is likely to provide 4-5 years of housebuilding when considering the average build rate is between 30-40 dwellings per year. Therefore the land for housing that is the subject of the SDC lease would be remediated and available by the time it would be needed.

It is difficult to say whether this form of 'phased remediation' will make the housing part of the site less attractive to prospective housebuilders. However housing land could be sold in two or more phases and the fact that part of the site is unlikely to be available before the end of 2021 cannot be ignored. In the circumstances, officers consider that early remediation and delivery of part of the housing land, with an obligation on the applicant to remediate and deliver the SDC land for housing promptly when it becomes available, is an acceptable outcome.

To ensure comprehensive redevelopment of the entire site, it is recommended that occupation of no more than 100 dwellings on the remainder of the site is allowed until the SDC land is remediated and ready for development to commence. 100 dwellings is considered a reasonable number, taking into account the fact that the remainder of the site has not yet been remediated, has not yet been sold to a housebuilder and does not yet have Reserved Matters consent. It is likely that house building will not commence for at least 18 months, and that by the time that 100 dwellings are constructed (at a rate of 3.5/month) the SDC lease will have come to an end.

The impact upon other material considerations should also be considered. These are explored below.

Securing remediation of a brownfield site was considered a material benefit and a phased delivery of remediation would still secure this benefit, albeit in two phases.

The benefit of remediation remains a material consideration.

Redevelopment of a brownfield site was also considered a material benefit and the amendment to permit a phased approach will provide a route forward to help deliver redevelopment of this brownfield site. If a viable scheme cannot be secured the risk is that the site will not come forward in its current form which could create much longer delays in terms of securing its redevelopment.

The site is currently derelict, the removal of a prominent eyesore within the local environment was also a material consideration. The land that is currently leased to South Devon College is landlocked deep within the site and the phasing would retain the ability to secure development on the more prominent land around the street frontages. Improvement of local visual amenity remains a consideration and the amendment is unlikely to have a demonstrably impact on this.

The following amendment to the wording of the condition is considered acceptable, on-balance, for the reasons above.

Recommendation: Part 1 of the previous resolution amended to:

a. Prior to the first use of any retail unit formed from the retail floorspace hereby permitted that part of the site shaded orange/yellow on Plan 14290-200C (Phase 1) shall be remediated to a level acceptable for its future intended land use/s as indicated in the outline Masterplan reference 1449-PL-001 Rev A, and in accordance with the remediation strategy approved as part of planning permission P/2017/0493 or P/2017/0494.

b. No more than 100 dwellings shall be occupied on the site until that part of the site shaded blue on Plan 14290-200C (Phase 2) has been remediated to a level suitable for its future intended land use/s as indicated within the outline Masterplan reference 1449-PL-001 Rev A, and in accordance with the remediation strategy approved as part of planning permission P/2017/0493 or P/2017/0494.

PREVIOUS REPORT TO MEMBERS (NOVEMBER 2017):

Executive Summary/Key Outcomes

The application is to amend Condition 32 (restrictive goods condition) of the outline consent granted under reference P/2014/0947 for the demolition of buildings and mixed use development comprising up to 255 dwellings, up to 5,574sqm 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, at the former Nortel site on the western outskirts of Paignton. Devonshire Park is part of the Brixham Road/Yalberton Future Growth Area is set out in Policies SS2 and SDP3.4 of the Adopted Local Plan.

The decision to grant outline consent was finely balanced because the provision of the retail floor space in an out of town location was considered to have an adverse impact on the Paignton and Torquay town centres. To limit the impact the outline consent was subject to four conditions controlling the total floor space, the range of goods, the minimum size of units possible, and also limit concessions within units.

The sale of goods condition, to which an amendment is now being sought, was imposed in order to limit the sale of comparison goods by limiting the sale of goods towards the "bulky" end of the market. The condition limited sales from the retail units to eleven categories of retail goods and this did not include convenience (food) retail. The application seeks to vary this condition to permit the sale of convenience (food) goods within one unit of up to 1,486sqm. This amendment should be considered in terms of the current Local Plan, National Policy and other relevant material considerations.

Policy TC3 *Retail Development* of the Torbay Local Plan 2012-30 states that for new out-of-centre retail development to be acceptable it should pass the 'impact test' and the 'sequential test' and should improve the spatial distribution of accessible facilities throughout the Bay to help achieve greater social cohesion. The National Planning Policy Framework (NPPF) sets out similar tests requiring such development to pass the sequential test and the impact test, as detailed within Paragraphs 24, 26 and 27 of the NPPF.

Considering local and national planning policy there are two key retail policy considerations, which is whether there is a sequentially preferable site and whether there would be an unacceptable impact upon town centres. In addition to these considerations other material consideration are also relevant.

The Council's retail advisor has concluded that the proposal fails the sequential test as White Rock has a planned Local Centre and there is planning permission for a similar size store in the area of the identified Local Centre, which is deemed to be both suitable and available for food retail. As a result, the advice to the Council is that the application fails the sequential test. The retail advice on other sites of interest is more reserved and concludes that there is insufficient information available to confidently conclude that either Crossways in Paignton or Middle Street in Brixham are genuinely suitable and available alternates at this present time. This entails a planning judgement about the reasonable prospects of their delivery in the near future.

The second relevant test is one of retail impact. On the information available, the Council's retail advisor agrees with the applicant's assertion that the proposal would have a similar level of financial impact upon Paignton Town Centre as the extant scheme. There is however concern that as the town centre is vulnerable to even small changes the widening of the trading overlap may itself have a demonstrable impact. The concluding advice is that there is a balanced judgement to be made as there some concern on widening the trading overlap with Paignton town centre.

Officers have carefully considered the two issues regarding the sequential and impact tests.

In terms of the sequential test although White Rock has been identified as a preferable site there is doubt whether directing such development there and resisting it as Devonshire Park would have a demonstrable positive impact in terms of seeking to help secure successful town centres or helping to enable sustainable economic growth, as both sites would appear to provide car-based food retail adjacent to the ring road. It is therefore considered uncertain that White Rock could be robustly argued as a preferable site as it is principally a similar proposition spatially. Officers also consider that it is relevant to consider the evidence that suggests that White Rock is advancing with an interested food retailer. Although this does not alter the concluded failure of the sequential test at this moment in time, it is relevant to consider the prospect of the site being delivered in the near future and thus the likelihood of it being no longer available.

Careful consideration has been given to Crossways and Brixham Town Centre. These are both town centre sites and are suitable for food retail. It is noted that the Torbay Development Agency and Neighbourhood Forum have objected that the current application could harm the viability of the town centre sites. However neither of these sites have live planning permission and there are no publically available extant plans for their redevelopment. On this basis it is concluded that there is less than a realistic prospect of the sites being available for the proposed use.

In regard to retail impact on balance it is considered that, as there is a number of food retail outlets already established along the Western Corridor, the proposed inclusion of food retail at Devonshire Park is unlikely to have an unacceptable impact upon Paignton town centre, as any harm on the town centre food retail sector is likely to be balanced by the reduced harm (competition) in the bulky goods sectors , and the main area of trade impact is likely to be upon diverted food retail trade from other outlets along the Western Corridor.

The NPPF (paragraph 27) indicates that as the application fails the sequential test policy guidance is that it should be refused unless other material considerations indicate otherwise. Notwithstanding this, the relatively "technical" nature of this failure and uncertainty about the availability of genuinely town centre sites are relevant considerations.

In regard to other material considerations it is relevant to consider that the site is a contaminated derelict brownfield site that is in a Future Growth Area, as designated within the Torbay Local Plan. Although the application is discordant with retail policy guidance the delivery of the mixed use scheme, which the amendment seeks to support delivery of, accords with a range of local and national policy guidance. It is a material consideration that the scheme would help secure remediation of this large contaminated site, which the applicant has confirmed he is willing to undertake. It is

also a material consideration that that it will aid regeneration of a large derelict brownfield site that is prominent in the local area, and also aid with the effective use of brownfield land, which is supported in national and local policy. In addition by aiding the implementation of the mixed use scheme it will also help deliver much needed housing and employment opportunities, which is also supported in local and national policy guidance. In terms of the food store alone it is projected that 55-60 jobs (33 FTE) will be created (based on the identified food retailers Operator Statement: Lichfields: Oct 2017: Produced on behalf of M&S). The site is also within the Council's five year supply of housing sites and measures to ensure delivery of such sites should be given significant weight.

In summary, the broader benefits outlined above in terms of remediation of land, effective use of a brownfield site, the delivery of housing and employment opportunities, and assistance with the wider Local Plan strategy (in Policies SS1, SS2 and SDP 3.4) are substantial. The retail planning policy is not clear cut, and there is a degree of conflict with policy TC3 of the Local Plan and Chapter 2 of the NPPF; in particular in terms of sequentially preferable sites, and broadening the area of impact on the town centres. However, as set out above, these issues are not clear cut, as there are factors that mitigate the extent of conflict. Officers consider that the balance, when all material considerations are weighed up, lies in favour of support for the proposal

There are three representations raising objections. The Paignton Neighbourhood Forum cites that the proposal fails the sequential test for food retail as Crossways could deliver the store, and has concern that the retail impact assessment is not robust enough. The two further representations raise concern in terms of traffic impact and the robustness of the assessment, along with certain points that appear to relate to the wider outline consent. The Torbay Development Agency also object on grounds of the likely harmful impact on town centre regeneration.

Recommendation

Approval; Subject to:

1. A Condition to secure remediation of the site (including the housing area) to a suitable level for its intended use, in-line with the land uses outlined within the approved indicative Masterplan (Reference 1449-PL-001 Rev A), prior to the first occupation of the retail development,
2. All previous Conditions (as amended by previous S73 applications), and,
3. The provision of a planning obligation to secure the sum of £36,744 as mitigation for the increased impact upon the Western Corridor caused by the additional traffic which would result from the introduction of convenience retail within the development, paid upfront or secured via a S106 Legal Agreement.

Decision Level/Statutory Determination Period

The application is before Members as the proposal is an amendment to a Major application.

The determination date for this application is the 31st August 2017. The target date has been exceeded as further information was requested from the applicant on sequential testing and retail impact.

Site Details

The site comprises the former Nortel/Bookham site that is now known as "Devonshire Park" to the west of the Brixham Road on the outskirts of western Paignton. 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 wider Devonshire Park site has an area of 9.76ha. The topography of the site rises by about 20 metres from south to north. The retail park section of the site (which is the subject of this application) is located in the southern part of the site, fronting Long Road and Brixham Road.

The buildings that sat on the southern part of the site have been largely demolished. The network of linked car parks still exists in the northern part of the site, which are framed by trees and hedgerows.

In terms of immediate context the site is bounded by housing, sports pitches and the 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 within the Brixham Road/Yalberton Future Growth Area in the Adopted Local Plan (SDP3.4). The site has permission (P/2014/0947) for a mixed use development including retail, subject to a condition limiting the nature of goods sold (see below).

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams SAC at Berry Head. It is within Flood Zone 1 and within the Critical Drainage Area designated by the Environment Agency.

Parts of the site are known 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 is a Section 73 application that seeks to vary a condition on the extant mixed-use scheme in order to permit convenience (food) retail.

The extant outline consent granted permission for up to 255 dwellings, up to 5,574sqm of B1/B8 employment space, 8,501sqm of (bulky) retail, 515sqm garden

centre and associated parking, servicing etc.

The proposal is to vary Condition 32 (Sale of goods within specified categories) of the outline consent to permit the sale of convenience goods within one unit of up to 1,486sqm.

Condition 32 currently permits the sale of the following goods;

- (i) Do-It-Yourself goods and materials;
- (ii) new kitchens and bathrooms;
- (iii) garden centre goods and materials, including plants;
- (iv) furniture and home furnishings
- (v) carpets and other floor coverings;
- (vi) gas and electrical goods;
- (vii) camping and associated leisure goods, no more than 10% of the net sales floor area of this category to be used for the sale or display of clothing and/or footwear;
- (viii) motor vehicle and bicycle related goods;
- (ix) pets and pet products;
- (x) office furniture; and
- (xi) ancillary products reasonably related to the categories above and restricted to a maximum floor area within each retail unit of 10% of the net sales floor area.

The proposal seeks an amendment to add the following wording to introduce the extra category, adding the wording;

- (xii) *Convenience goods within one unit up to 1,486sqm.*

The applicant has stated that the amendment is necessary as following marketing of the retail park interest had been disappointing and they are currently unable to implement the extant permission as it is unviable.

The applicant has stated that they have reached agreement with three retailers and terms have been agreed with a forth, however this is a food retailer. If they secure this forth retailer the applicant has stated that this would make the scheme viable and thus if the amendment was granted the scheme could be delivered with the remaining retail floor space being built speculatively. It is their intention to commence in early 2018 if consent is granted.

It has been stated by the applicant that once a viable retail element is secured it will trigger the remediation of the northern part of the site where the residential elements of the extant permission will be delivered. Therefore if the amendment is secured it will aid in the regeneration of the whole of the Devonshire Park site. The applicant has indicated that they are willing to deliver the housing area of the site ready for development prior to occupying the retail element, in order to help the delivery of the

housing element.

Summary Of Consultation Responses

The Council's Retail Advisor (GVA)

There are two clear retail issues, the sequential test and the retail impact test. Both are engrained within Local and National planning policy. Following a review of the additional information submitted by the applicant, the advice is as follows;

The sequential test:

It is considered that the information submitted has not provided sufficient information to demonstrate compliance with the sequential test following an agreed focus on three key sites.

The applicant has failed to demonstrate that White Rock Local Centre (TC 2.19) is not a sequentially preferable site. The site benefits from planning permission for a similar sized store and hence it would appear suitable. The applicant's conclusion that the site is not available as there is already a food retailer tied to the site is disputed as for the purposes of the sequential test it is whether a site is available for the use rather than any particular user. Therefore at this present time this site is, as it has been identified to sit in the retail hierarchy, considered a sequentially preferable site for food retail that is suitable and available.

In terms of other sites of focus the applicant has sought to address the suitability and availability of Crossways (Paignton) and Middle Street (Brixham). Both of these sites have long been promoted as potential retail development sites and are being treated as high priority sites in terms of the Council's regeneration programme. They are both continuing to be subject of further appraisal work by the Torbay Development Agency and the Torbay Development Agency has advised that retail floorspace remains a key focus for both sites.

It is considered that both sites, but particularly the Brixham site, have the potential to accommodate a foodstore unit and therefore may be suitable.

However in terms of availability at this present time there is insufficient information available to confidently conclude that either of these sites are genuinely suitable and available alternates. For the Council to conclude otherwise it will need to have confidence that either or both of these sites can be progressed to a sufficient stage where further certainty can be reached on the suitability and availability of either site.

Retail impact:

There is some concern about the quality of the applicant's data in respect to retail impact and there is a preference that a more appropriate evidence base is submitted.

However on the assumption that the applicant's analysis of the likely trade diversion is reasonable it suggests that there would be a 6% loss in terms of total turn-over on Paignton town centre, which is a similar level to the extant permission for Devonshire Park. This appears a reasonable conclusion and therefore it is not contested that the financial impact would not be to a similar level and therefore it is unlikely that there would be a material difference in the overall level of direct financial impact on the retail sector in Paignton town centre.

There are however further considerations on impact and it is relevant to consider the breadth of effect on Paignton town centre, as there will be a widening of the trading overlap as the scheme would be competing with the town centre on both comparison and convenience goods. In regard to this it is reasonable to suggest that Paignton town centre already faces significant competition from out-of-centre foodstores. However this does not mean that some additional food trade will not be diverted. This is a concern as previous advice has indicated the vulnerability of Paignton town centre is such that even small levels of trade loss could be harmful. The Council should be aware that the available data indicates that that Paignton town centre is becoming even more vulnerable as it loses market share across both convenience and comparison goods sectors. This trend, in combination with the committed floorspace, makes this situation worse. There is a balanced decision to make on the wider cumulative impact.

Strategy and Project Officer (regarding retail and highway and transport matters):

Retail matters:

Sequential test

There is agreement with the Council's retail advisor that in terms of the sequential test the relevant consideration should be whether there is scope to provide up to 1,486sqm of convenience retail (with reasonable flexibility over format and scale) in a sequentially preferable site and not the whole of the permitted floorspace of the extant scheme.

The sequential test is set out in NPPF 24 and Policy TC3 (D) of the Adopted Local Plan. Policy TC3(D)2 requires there to be no other town centre or edge of centre site that is suitable, available or viable.

On the information available, the retail advice received is that the proposal fails the sequential test as there are sequentially preferable sites at White Rock. The situation with Crossways (Paignton town centre) and Middle Street (Brixham town centre) is more unclear.

The retail advice appears conclusive in terms of the availability of a site at White Rock, which is designated within the Torbay Local Plan retail hierarchy and will

become a Local Centre. However the purpose of the sequential test is to support the town centre first approach, help ensure successful town centres, and help enable sustainable economic growth and secure the range of economic and social benefits that are related. Although White Rock is designated for a local centre it is very close to the Devonshire Park site and spatially sits within a similar context. It is relevant that realistically the impact of delivering a foodstore at White Rock rather than at Devonshire Park is unlikely to be any more beneficial to the town centre or spatially more sustainable. It would appear uncertain that if the sequential preference of one over the other was contended at appeal whether it would be reasonably considered a preferable site in real terms.

Impact test

The impact test is set out in Policy TC3 (D)1 of the Local Plan and paragraph 26-27 of the NPPF. The Local Plan refers to "unacceptable" impacts whereas the NPPF refers to "significant adverse impact". The intention of the two policies is similar.

The current application must consider the additional impact of convenience retail, since the principle of albeit relatively bulky comparison goods has already been approved.

The Council's retail advisor has broadly accepted the applicant's assessment that the proposal is likely to result in a 6% loss of retail turnover in Paignton Town Centre, which is similar to the overall impact of the approved retail development at Devonshire Park. This is a material consideration to take into account. There is however concern that the widening of the trading overlap will itself have an unacceptable impact on a centre that is struggling.

Crucial points are that there is no additional floor space and that there is unlikely to be any additional financial impact. It therefore falls in the impact of the change in retail offer. Whilst the reduction in bulky retail goods will reduce the trading impact on these sectors that currently trade within the town centre, the introduction of food retail will introduce competition within this market area within the town centre. As the town centre already experiences a high level of competition from out of town food retail located along the Western Corridor it would appear reasonable to conclude that the introduction of this sector of retail within the Devonshire Park scheme is unlikely to present a demonstrable impact, as the trade diversion to food appears established, and any impact is likely to be more aligned with diversionary sales from existing retailers along the Western Corridor.

Spatial distribution of facilities

It is relevant to note that Policy TC3 (D)3 seeks to improve the spatial distribution of accessible facilities throughout the Bay and to help achieve social inclusion. The Western Corridor area is well served with food stores and an additional store could reinforce the position of most food stores being relatively inaccessible to people with

no access to a car. However the floorspace has been established for retail purposes within the extant outline scheme and therefore the impact is not considered demonstrable. It is also relevant to note the rise in home delivery food retailing, which itself improves access to such services.

Wider material considerations also apply and it is recognised that the proposal would unlock regeneration of a brownfield site and help deliver much needed housing and employment. Although contrary to the retail policy aims and objectives the proposal is in accordance with a number of Strategic Policies within the Local Plan relating to the Growth Strategy, development within Strategic Growth Areas, the presumption in favour of sustainable development, housing delivery and the economy and employment. When considering the Local Plan 'in the round' and when considering the wider benefits the balance appears in favour of support for the proposal.

Highway impact:

The application is supported by a Transport Assessment including a TRICS assessment, to assess the impact of convenience retail upon the immediate road network. This concluded that the traffic impact can be accommodated within the existing highway network, and does not create specific capacity log jams. It also noted that a number of trips will be passing or shared trips.

Notwithstanding the Transport Assessment convenience retail has a greater impact on the road network than non-food. TRICs indicates that Retail Parks excluding food generate fewer trips per day than those retail parks that include food sales.

On this basis of a food store of 1,486sqm a contribution of £36,744 has been agreed with the applicant to mitigate the additional impact upon the highway network. This contribution should be secured to be used towards projects on the Western Corridor in accordance with Policy SS6.2.ii, and SS7 of the Adopted Local Plan.

Torbay Development Agency Town Centres Regeneration Programme Director

This out of centre food outlet does not accord with the Local Plan. Town centre regeneration is now one of the Council's top transformation projects to which significant resources are being committed.

The Council has adopted (April 2017) a Transformation Strategy for Torbay's Town Centres, which now forms part of the Council's Economic Strategy. The Strategy sets out a 10 year programme for successful town centre regeneration and, specifically, identifies delivery activities over the next 3 years (Phase 1 of the regeneration programme). The key purpose of Phase 1 is to build confidence - investor confidence; developer confidence; confidence by communities in delivery of town centre regeneration etc. That confidence, and the Council's efforts, will be undermined by any further significant increase in food retail out of town.

Food retail is a key element of viability for several key town centre regeneration projects, including Victoria Centre and Crossways in Paignton and Brixham Town Centre Car Park. The Council's considerable efforts and financial support for town centre regeneration is highly likely to be undermined by additional significant out of town food retail, as it will be much more difficult to achieve viable development of regeneration sites and more difficult to secure momentum in the delivery of town centre regeneration.

Summary Of Representations:

There are three representations raising objections.

The Paignton Neighbourhood Forum cites that the proposal fails the sequential test for food retail as Crossways could deliver the store, and has concern that the retail impact assessment is not robust enough.

The two further representations raise concern in terms of air quality, tree removal, overlooking and traffic impacts, which appear directed towards the broader extant scheme rather than the amendment sought through this application.

Relevant Planning History:

P/2017/0493 and P/2014/0494:

Two options for groundworks, including the demolition of remaining structures, grubbing out of trees, foundations and floor slabs, remediating contamination and earth works to re-profile the site. Approved 22.09.2017.

P/2017/0123:

Variation of condition P1 of P/2014/0947 (as amended) (Outline Application with all matters reserved except access) - to vary Condition (P1) detailed approved plans to vary the access arrangement off Long Road. Approved 18.10.17.

P/2016/1372:

Variation of condition P1, 34 and 35 of P/2014/0947 (Outline Application with all matters reserved except access) - 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. Approved 18.10.2017.

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.

P/2017/1041:

Variation of conditions on application P/2014/0947: (Devonshire Park Housing/Commercial Project). Variation of condition 33 - Maximum retail floor space. Amendment sought: Increase total gross floor area of class A3 floorspace from 139sqm to 167sqm. Pending Decision.

Key issues/Material considerations:

The key issues are :

1. The provision of convenience retail in terms of; (a) satisfying the sequential test, and (b) the retail impact upon existing and planned centres in terms of investment, vitality and viability,
2. Highway and movements impacts, and
3. Other material considerations

1. The Provision of a Convenience Retail Unit of 1,486sqm

The two keys issues are the sequential test and the retail impact test.

The sequential test is to consider whether there is a more suitable site available to deliver the development. The retail impact test is to consider the impact upon existing and planned centres. Each of these tests will be considered in detail below.

1(a). The Sequential Test

The sequential test is set out in Policy TC3 of the Local Plan and paragraph 24 et seq. of the NPPF. The interpretation of the NPPF has also been adjudicated on by the Courts. In this context suitable and availability means "suitable for the development proposed by the applicant" which is a wider meaning than suitable for retail in principle. However availability means availability for the type of retail use for which permission is sought, and not availability for a particular retailer .

The sequential test is relevant as the proposal seeks to provide a town centre use in an out-of-centre location, as Devonshire Park is not designated within the local retail hierarchy and is not within an area allocated or intended to be allocated for convenience retail use in the Torbay Local Plan. The sequential test is necessary in order to consider whether there is a more appropriate location available that could deliver the development.

In regard to local policy context Policy TC3 *Retail Development* of the Local Plan states that new out-of-centre retail development must meet three criteria, one of which is that no other town centre or edge-of-centre site is suitable, available or viable. This aligns with the sequential test guidance in the NPPF. Paragraph 27 of

the NPPF states that where an application fails to satisfy the sequential test it should be refused, which is a premise supported within Local Plan Policy TC3.

The applicant has provided information that seeks to assert that the sequential test is met.

The sites identified for sequential assessment are Crossways (Paignton town centre), Victoria Square (Paignton town centre), Middle Street (Brixham town centre), Preston District Centre, and Yannons and White Rock Local Centres. The assessment of each of these sites is covered in turn below.

Crossways, Paignton town centre

Crossways is genuine town centre site and has a Local Plan allocation as such (Policy TC2.1.2). The NPPF seeks to promote competitive town centre environments and recognise these as the heart of the community (Para 23). The submitted Neighbourhood Plan (Policy PNP8) envisages a retail role for the centre, but does not make a firm proposal for a supermarket.

The applicant contends that the current retail space is not suitable for retail use as the centre has been vacant for a number of years and the site is proposed for redevelopment within the Local Plan and the adopted Town Centre Masterplan SPD for Paignton. It is, for these reasons, considered reasonable to exclude the current building as a potential sequentially preferable site. Therefore the site's suitability and availability hinges upon a redevelopment scheme being suitable and available.

The applicant contends that the site is not suitable or available. Suitability is argued principally on design grounds in terms of food retail being likely to present a building form that is unlikely to be able to respond with the masterplans intentions for pedestrian permeability and active frontages in a redevelopment scheme. In terms of availability it is contended that a scheme is unlikely to come forward in a reasonable timeframe as there is no extant permission and no publically available regeneration scheme that supports a clear desire to move the site forward.

The Torbay Development Agency has indicated that Crossways is a priority site for regeneration and that an application for a mixed use retail and residential scheme is expected soon.

Crossways is not uncommon with many town centre regeneration sites in that it is a complex proposition and, as such, reaching an opinion on suitability and availability of this site is not simple. On one hand the applicant contends that as there is no extant planning permission, and where there are current occupiers on site and no public information that may suggest an open desire or any demonstrable momentum from the landowner to progress this long identified, the actuality of the site being available within a reasonable timeframe is clearly uncertain. On the other hand the Torbay Development Agency states that they are confident that the landowner

wishes to progress redevelopment and that a planning application could be submitted very soon and they are seeking to support this process as the site is a corporate priority. The Council's retail advisor, notwithstanding the confidence of the Torbay Development Agency, concludes that at the present time there would appear insufficient information to conclude that the site is suitable or available.

Officers have carefully considered the various comments and in the circumstance agrees with the Council's retail advisor that, on the information currently available, it cannot be confidently concluded that Crossways can be considered either suitable or available at this present time. There appears too much uncertainty where there is no planning permission and an apparent lack of any demonstrable information within the public domain that suggests the site could be delivered speedily enough to reasonably be considered available at the present time. It is also relevant that as the Crossways site is not in Council ownership - this creates a reliance on a third party and limits the ability of the Council through the Torbay Development Agency to progress their regeneration agenda.

On the basis of the evidence presented by the applicant, the comments of the Torbay Development Agency's Town Centres Regeneration Programme Director, and considering the advice of the Council's retail advisor, it is deemed reasonable to discount Crossways as a suitable and available sequentially preferable site at the present time. The above judgement is made on the information that is currently available.

Victoria Square, Paignton town centre

Like Crossways, this is a genuine town centre site for Paignton however the site is occupied by a food retailer and other units within the centre are too small to accommodate the proposed floor space. In the circumstances, this location can be dismissed as a sequentially preferable site.

Middle Street, Brixham town centre

This is also a genuine town centre site (TC2.1.3) located in the heart of Brixham. Previously the site was committed for mixed use retail and residential development however the permission has now expired (for context planning permission P/2012/1309 granted consent for mixed use including 2,791sqm net sales area, plus 218sqm ancillary retail). It is noted that the submitted Brixham Neighbourhood Plan wishes to see a small-medium sized supermarket as well as other units and parking on the site.

The applicant's sequential assessment seeks to assert that at this current time there is no viable development proposal for the site and no identified development partner (for this Council owned site) and that this means that there is no timescale for this development and therefore the site is unavailable for the proposed development.

Current advice from the Torbay Development Agency is that the future of this site is less certain than Crossways.

Although unlike in the case of Crossways the Council does own the land and hence there is an opportunity to achieve more certainty in terms delivery; however the site appears some way off delivering a regeneration opportunity that may include food retail.

On the information available it is not evident that the redevelopment of this site is expected within a reasonable period of time and hence this site is not considered an available sequentially preferable site for the proposed development. Similar to the situation with Crossways, Members are advised that this is a judgment on the information currently available.

Preston District Centre

The applicant's assessment is considered reasonable and the Council's retail advisor agrees with the conclusions that there are no suitable and available sites in Preston District Centre. It is noted in particular the Vauxhall Garage is identified for residential use in the Adopted Local Plan.

Yannons Local Centre

Yannons Farm Local Centre contains an Aldi food store and is unlikely to be able accommodate another food store of the scale proposed. It can be dismissed as a potential sequentially preferable site.

White Rock Local Centre

White Rock is identified to provide a Local Centre and the site appears to be suitable as it has permission (P/2011/0197/MOA and reserved matters application P/2016/0411) for a foodstore of a similar scale. There is also a current application for a revised foodstore under planning reference P/2017/1019.

The applicant contends that the site is not available as another food retailer is furthering a scheme on this site. The Council's retail advisor and the Courts have confirmed that for the purposes of the sequential test availability is for the use and not the user. Therefore at this present time the site, as it has been identified to sit in the retail hierarchy, appears to technically be a sequentially preferable site for food retail that is both suitable and available.

However notwithstanding the advice received Members are advised that the purpose of the sequential test is to help ensure successful town centres and help enable sustainable economic growth, along with the range of economic and social benefits that are related to sustainable growth. Although White Rock is designated for a local centre it is very close to the Devonshire Park site and spatially it sits within an almost

identical context. Realistically the impact of delivering a foodstore at White Rock rather than at Devonshire Park is unlikely to be any more beneficial to the town centre or spatially a more sustainable form of development. In addition, while the site is currently available for retail use, there is a fair expectation that it will be built out in the near future, which will remove its availability. It is a balanced argument but it is considered relevant that there is uncertainty whether, if the sequential preference of one over the other was contended at appeal, the White Rock site would be reasonably considered a preferable site in real terms.

Having considered the advice, it is recommended that the proposal is considered to fail the sequential test in terms of White Rock being a suitable and available site. It therefore conflicts with Policy TC3 of the Local Plan and NPPF paragraph 27. However the degree of this conflict may be mitigated, as a judgement of planning merit, by the fact that White Rock is similarly located to Devonshire Park in terms of accessibility, ring road location and relationship to the town centre.

1(b). Impact on Town Centre Investment and Vitality and Viability

The second test is one of retail impact.

NPPF provides clear advice that proposals with the potential to generate a significant adverse impact upon town centres should be refused planning permission (Paragraph 27).

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.

Policy TC3 of the Local Plan again provides the relevant policy guidance and the policy cites 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.

The local and national tests are worded slightly differently however they seek to achieve similar goals, to promote competitive town centres and support their viability and vitality.

Because of the sensitivity of Torbay's town centres to out of centre retail, the Local Plan sets a threshold of 500sqm to trigger the impact test, which is below the baseline 2,500sqm in the NPPF.

In terms of context for Members 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 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 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 with, as stated, the above conditions being attached to limit the risk of a significant adverse impact on town centres, which included the range of goods to be sold.

Condition 32 was attached in order to limit the sale of comparison goods. Members are reminded that the permission permitted the sale of eleven categories of retail goods, which were;

- (i) Do-It-Yourself goods and materials;
- (ii) new kitchens and bathrooms;
- (iii) garden centre goods and materials, including plants;
- (iv) furniture and home furnishings;
- (v) carpets and other floor coverings;
- (vi) gas and electrical goods;
- (vii) camping and associated leisure goods, no more than 10% of the net sales floor area of this category to be used for the sale or display of clothing and/or footwear;
- (viii) motor vehicle and bicycle related goods;
- (ix) pets and pet products;
- (x) office furniture; and
- (xi) ancillary products reasonably related to the categories above and restricted to a maximum floor area within each retail unit of 10% of the net sales floor area.

The current application seeks to introduce a convenience retail unit of 1,486sqm, as a 12th category. The retail impact of this is discussed below.

It is clear that the outline consent was granted on balance with restrictive conditions

to reduce the risk of a significant adverse impact on town centres, which included the type of goods to be sold. 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 town centres to relatively small levels of impact.

In terms of the proposal there is concern about the reliability of the applicant's data as analysis is based upon historic shopping patterns. This leads to a situation where the survey data has had to be manually adjusted to take into account more recent foodstore openings in the area, there being no assessment of the impact of the proposal on existing investment in nearby town centres, and there being no up-to-date assessment of the health of Paignton and Torquay town centres. However, the Council does not have any reliable data on shopping patterns other than the 2013 Retail Update (which in part used 2011 survey data), and on this basis it is accepted that all parties are using the best information currently available.

The Council's retail advisor has accepted the assertion that the likely trade diversion is similar to the extant scheme with a likely 6% loss in terms of total turn-over on Paignton town centre.

However whilst the financial impact may be to a similar level there is a concern raised that the breadth of effect on Paignton town centre will be widened. This is principally as the scheme would subsequently be competing with the town centre on both comparison and convenience goods trading areas. In this case the applicant has reported that the convenience store is necessary in order to achieve a viable development to commence and bring forward in the market. The Council's retail advisor has raised a concern that the increase in the trading overlap between Devonshire Park and Paignton town centre may have a likely significant effect. Previous advice indicated the vulnerability in the health of Paignton town centre and lead to a conclusion that that even small levels of trade loss could be harmful.

The data available indicates that Paignton town centre is becoming even more vulnerable as it loses market share across both convenience and comparison goods sectors. In terms of information that is available for comparison goods total spend remained static between 2007 and 2013 in the context of significant growth expenditure within this time period. This indicates a loss of market share. In terms of convenience turnover within the town centre this fell from £30.4 m in 2007 to £17.8m in 2013. A significant loss in turnover and market share.

The concern on the impact of widening the trading overlap is noted by Officers however there is a balanced decision to be made. On one hand the reduction in the trading floor space available to 'bulky goods' will reduce the impact on this sector of town centre retail. This 'benefit' then has to be weighed against the potential harm on the food retail sector which is being introduced in to the trading equation. In the context where there is a large amount of out-of-centre food retail already competing with Paignton town centre, where there is a Morrisons, Asda, Sainsburys and Aldi

along the ring road, food retail is considered to be a less sensitive introduction in to the scheme. It is still the case that there may be some trade diversion from the town centre but predominantly the impact of food retail diversion is already present and the mainstay of any impact is likely to be one of diversionary sales from within other operators along the Western Corridor (some of which are out of centre). On balance the concern on the breadth of retail is considered countered by the reduced impact upon bulky goods (and the range of less than bulky items permitted to be sold by Condition 32) and the existence of a strong presence in terms of food retail along the Western Corridor, which is likely to limit the impact of any further introduction of food floorspace. This conclusion is consistent with Officer advice to Members for two previous food store units on the Western Corridor within the past decade (Yannons Farm and White Rock) where the main impact was considered to be one of diversionary sales within the Western Corridor rather than any demonstrable impact upon Paignton town centre.

Paragraph 27 of the NPPF notes that proposals likely to have significant adverse effects on centres should be refused. Policy TC3 of the Local Plan out of centre retails development should not cause "unacceptable impacts".

It is concluded that the proposal is unlikely to be a significant or unacceptable impact, for the reasons stated above, notwithstanding the concern of the Council's retail advisor.

The proposal is therefore considered, on balance, to pass the retail impact test in accordance with the NPPF and Policy TC3.

Spatial Distribution of accessible facilities

Closely linked to retail impact considerations, Policy TC3 (D)3 seeks to improve the spatial distribution of accessible facilities throughout the Bay and to help achieve social inclusion. The Western Corridor area is well served with food stores and there is a danger that allowing an additional store could reinforce the position of most food stores being relatively inaccessible to people with no access to a car. The Indices of Deprivation clearly show Paignton town centre as a deprived area and as previously discussed the provision of convenience food may impact town centre regeneration, which is often underpinned by a food retail presence within a scheme. However as determined within this report that proposal is considered unlikely to have a significant impact upon town centre food retail and hence the harm upon spatial distribution of such facilities is not considered unacceptable. The proposal, for this reason, is considered to accord with the aspiration of TC3(D)3.

2. Impact upon the highway network and movement

Notwithstanding the Transport Assessment, convenience retail is considered to have a greater impact on the road network than non-food.

The difference in trip rates between "with food" and "without food" retail parks is 48.2 trips per 100sqm. On this basis 1,486sqm food store on a retail park would generate 716.25 more trips than the same unit selling non-food.

The Adopted Planning Contributions SPD seeks transport contributions based on £171 per trip (based on the assessed cost of delivering the LTP and highway infrastructure in Future Growth Areas).

Following discussion of the expected linked trips the Council's Strategic Transport Officer has agreed a figure to £36,744.00 in terms of required mitigation.

The monies would be used towards projects on the Western Corridor as per Policy SS6.2.ii, and SS7 of the Adopted Local Plan.

On the basis of the above, it is considered appropriate to seek a S106 Obligation as above to mitigate additional traffic generated by convenience sales should Members grant permission.

The existing Section 106 agreement would need to be tied to the new application through a deed of variation to include the transport obligation outlined above should Members wish to approve the scheme.

This should be completed prior to the formal determination of the application.

Subject to the above the proposal is considered acceptable on highway safety grounds and compliant with the aims and objectives of policies TA2, and DE1 of the Torbay Local Plan 2012-2030. A retail travel plan is required for the development under the conditions previously imposed.

3. Other material considerations

As the application fails the sequential test policy guidance dictates that it should be refused unless other material considerations indicate otherwise. Other material considerations should also be considered in respect of the degree of retail impact.

In regard to other material considerations the site is a contaminated derelict brownfield site that is in a Growth Area, as designated within the Torbay Local Plan.

Although the application conflicts to some extent with retail policy guidance, the delivery of a mixed use scheme on the site, which the amendment seeks to support delivery of, accords with a range of local and national policy guidance. Hence when the aspirations of the Local Plan is considered 'in the round' it is in accordance with a number of key growth, housing and employment policies.

It is also a material consideration that that it will aid regeneration of a large derelict brownfield site, which the effective use of is supported in national and local policy.

One of the core planning principles (Para 17 of the NPPF) is to encourage the effective use of land by reusing land that has been previously development, provided that it is not of high environmental value.

The applicant has confirmed he is willing to undertake this remediation. It is suggested that should Members agree with Officers and consider that the remediation is necessary as part of a package of material benefits that weigh in favour of the scheme, then the delivery could be achieved by a Planning Condition, which has been identified within the officer recommendation.

By aiding the implementation of the mixed use scheme it will also help deliver much need housing and employment opportunities, which is also supported in local and national policy guidance. In terms of the housing the aforementioned preparation of the housing area being fit for its intended use is likely to make the site more attractive to housing providers and potentially aid speed delivery. The site is within the Council's five year housing supply and therefore measures to assist delivery can be given significant weight.

In terms of employment the food store alone is projected to create 55-60 jobs (33 FTE) based on the identified food retailers Operator Statement (Lichfields: Oct 2017: Produced on behalf of M&S). This projection is above the comparison goods expected provision and would suggest that a further 17 FTE jobs could be created by the amendment, which could increase the overall projected job creation forecasts for the retail and employment from circa 157.5 FTE to 173.5 FTE jobs.

The material considerations are considered demonstrable and Officers feel that collectively they add great weight in favour of the application in this particular circumstance, where it relates to a contaminated and derelict brownfield site that sits in a prominent location, in a designated Growth Area.

S106/CIL

As stated above a S106 contribution of £36,744.00 would be required to mitigate the impact of additional vehicular movements that would be generated by the proposal.

The proposal is not CIL liable as it is an amendment to an extant planning permission and does not increase floorspace. However CIL will be liable on any future increase in retail floorspace, should this occur.

Statement of Pro-active Working

The Council has sought to work positively and proactively with the applicant through pre-application discussions and through open dialogue throughout the application process including requests for further information.

Local Finance Considerations

The applicant cites that the convenience store is necessary in order to provide the necessary quantum of interest to make commencement of the outline consent viable.

Delivery will bring a number of economic benefits to Torbay through the mixed provision of housing, retail and employment space.

The extent to which the application will secure the regeneration of the derelict site and provide housing and employment are material considerations.

The applicant refers to the need to secure a third retailer to make the Devonshire Park development viable in order to commence in early 2018.

Human Rights and Equality Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Environmental Impact Assessment

The proposal has been screened in accordance with the current Environmental Impact Assessment Regulations. The proposal is not considered to be EIA development and does not need to be supported by an Environmental Statement.

Conclusions

The provision of a convenience food store is supported for the following reasons.

Firstly the town centre sites identified are not considered available and the site identified as White Rock is not considered a different proposition to Devonshire Park when considering what the sequential test seeks to achieve. The sequential test is technically failed however the benefit of seeking to deliver the development within the site identified over the Devonshire Park site is questionable.

The retail impact is not unacceptable as the financial impact of the proposal is similar to the extant scheme and the impact of broadening the trading overlap is muted by the extent of food retail already established in the area, together with the lessening of the impact upon the bulky goods sector of trading in the town centre.

There are other positive material considerations that weigh in favour of the proposal. It will deliver the remediation of the entire site to a level suitable for its intended use, it will help facilitate the commencement of the mixed-use scheme and regenerate a derelict brownfield site, and will through this regeneration help deliver much needed housing and employment opportunities.

The introduction of convenience retail is indicated by trip rate analysis (TRICS) to

generate an increase in vehicular traffic. The Highways Authority has requested a S106 Contribution towards mitigating the effect of this upon the Western Corridor, which should be secured.

The conclusions above have sought to acknowledge that the planning policy situation is complex, however whilst the matter is finely balanced it is considered that although the application fails the sequential test other material considerations including the delivery of wider Local Plan and NPPF objectives outweigh the retail policy concerns, and that taken as a whole the development can be considered to represent sustainable development.

The officer recommendation is therefore one of approval in line with Policies SS1, SS2, SS3, SS4, SS12, SS13, TC1, TC2, TC3, and TA2 of the Torbay Local Plan 2012-2030 and Paragraph 27 of the NPPF.

Relevant Policies

TC1 - Town Centres

TC2 - Torbay retail hierarchy

TC3 - Retail Development

SS6 - Strategic transport improvements

SS7 - Infrastructure, phasing and employment

SS11 - Sustainable Communities Strategy

TA2 - Development access

Application Number

P/2017/1042

Site Address

Land At Woodview Road
Paignton

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Construction of two Use Class B2 industrial manufacturing units, to provide 2255.9m² (GIA) of floor space, external lighting, circulation space, car parking and hard standing.

The proposed development does not accord with the provisions of the development plan (Torbay Local Plan 2012-2030) in force in the area in which the land to which the application relates is situated.

Executive Summary

The application is for full planning permission for the erection of two industrial buildings, on land that was included in the outline consent for development at White Rock under P/2011/0197. This outline permission has now expired. The application site is split into two separate areas (unit C and E) and relates to the western bowl of the wider White Rock site. The sites are currently used for agricultural purposes. The site is to the south west and west of the existing industrial units on Woodview Road. Two industrial units associated with the original outline consent have been constructed within the wider part of the site that was subject of the outline application.

The first, unit C would be positioned south of the existing western bowl industrial buildings and would have a floor area of 1,114.48sqm. The second, unit E would be positioned west of the existing western bowl industrial buildings would have a floor area of 1141.41sqm. The buildings are to be used as manufacturing units which is a general industrial B2 use. The proposed buildings are single storey and approximately 9m in height. The proposed buildings have been designed to be subdivided into 10 separate individual units. To the west of unit C is an area of hardstanding to provide 33 parking spaces, including 2 disabled spaces and to the north of unit E is an area of hardstanding to provide 24 parking spaces of which 8 are allocated for disabled persons. The application form refers to the provision of 73 parking spaces, but the plans suggest that the spaces above the 57 noted are 'possible future additional car spaces'. 8 cycle parking spaces are proposed to serve unit E and 4 spaces are proposed to serve unit C. Each of the subdivided units is served by a loading bay for large vehicles. Refuse storage is also proposed within the site. It is proposed to retain existing hedges and trees to the boundaries and to provide new tree and hedgerow planting and meadow grassland.

In the Torbay Local Plan 2012-30 the site is designated as Countryside Zone and shown as a potential development site for consideration in the Neighbourhood Development Plan, primarily for employment investment. The Paignton Neighbourhood Plan (submission version) does not allocate any sites for any form of development. This application has been advertised as a departure from the Torbay Local Plan 2012-30.

However, other material considerations are relevant. Whilst the previous permission does not bind the Authority, it was made under a similar policy framework and there is a need to ensure consistency in decision making. The site has been partly built out, and is within the SDP3.5 Strategic Delivery Area. The NPPF and Torbay Economic Strategy place weight on securing employment development, and Torbay has a pressing need to improve the jobs market, which has been identified as a serious problem for adult social mobility in the Bay.

The site is separated from proposed residential units associated with application references P/2011/0197 and P/2013/1229 by the proposed ridge top park as part of the wider plans for the Whiterock site and proposed sports pitches associated with South Devon College approved under reference P/2016/0188. To the south and west of the site is open countryside and the South Devon AONB. To the north west and south west of the site are areas of woodland associated with Shopdown Copse and St Peters Copse (identified as Other Sites of Wildlife Interest and an Unconfirmed Wildlife Site within the Torbay Local Plan 2012-2030). The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. The site is also situated within a Mineral Safeguarding Area and Flood Zone 1, Critical Drainage Area. There are no trees within the application site but a hedgerow runs along the western boundary of the unit E site and a tree is located to the south of the boundary of the unit C site.

The provision of employment uses within the site has been established by the earlier outline application for the wider Whiterock site. Whilst this application has now expired, it remains a material consideration which, as there have been no significant changes in circumstances, may be afforded significant weight. Additionally, the continued provision of employment uses in this location continues to be supported by current Local Plan policies (notably SPD3.5) and is important for economic recovery and growth in Torbay. Although the proposed development is contrary to the Torbay Local Plan 2012-30, on balance the principle of industrial uses on this site remains acceptable and should be supported.

However there are a number of outstanding matters and consultee responses that are required prior to confirming the acceptability of the scheme in terms of biodiversity, landscape impact and transport and parking matters. Officers believe these issues can be resolved, in compliance with the provisions of the Torbay Local Plan 2012-2030, specifically Policies SS4, SS5, SS8, SS11, DE1, DE3, TA1, TA2, TA3, NC1, C4, ER1, ER2 and appendix F of the Torbay Local Plan 2012-2030.. Should such issues be resolved, the imposition of conditions will be required.

Recommendation

Conditional Approval, subject to the consultation with the AONB unit, HRA consultants and Transport Officers and the successful resolution of any matters raised, further consultation with the Council's Ecological Consultants regarding Cirl Buntings and the implications of the development on their habitat, if it is considered necessary a Section 106 agreement to secure biodiversity mitigation, completion of a HRA screening and expiry of the consultation period (with no new issues raised). Final drafting of conditions to be delegated to the Executive Head for Assets and Business Services.

Recommended conditions:

1. CEMP (to include reference to Ecological Clerk of Works)
2. LEMP (to include reference to Ecological Clerk of Works)
3. External Lighting
4. Tree Protection
5. Materials
6. Ecological Monitoring
7. Landscaping
8. Nesting Features and Bat Boxes
9. Travel and Freight Plan
10. Parking
11. Footways
12. Surface Water Drainage
13. Bird Nesting Season
14. No External Material Storage
15. No Industrial PD
16. Unsuspected Contamination
17. Cycle and Waste Storage
18. Secured by Design
19. Details of Plant

Reason for Referral to Development Management Committee

The application is a major application and is therefore required by the constitution to be determined by DM committee.

Statutory Determination Period

13 weeks, the decision date is the 10th January 2018.

Site Details

The application site is split into two separate areas (unit C and E) and relates to the western bowl of the wider White Rock site. The land is currently in agricultural use. Two industrial units associated with the original outline consent have been constructed under approved reserved matters application P/2013/1009 and part of the wider Whiterock site is under construction under the approved reserved matters

scheme P/2013/1229 P/2014/0071 with a number of dwelling houses complete.

The application site is to the south west and west of the existing industrial units on Woodview Road. The site is separated from proposed residential units associated with application references P/2011/0197 and P/2013/1229 by the proposed ridge top park as part of the wider plans for the Whiterock site and proposed sports pitches associated with South Devon College approved under reference P/2016/0188. To the south and west of the site is open countryside and the South Devon AONB. To the north west and south west of the site are areas of woodland associated with Shopdown Copse and St Peters Copse (identified as Other Sites of Wildlife Interest and an Unconfirmed Wildlife Site within the Torbay Local Plan 2012-2030). The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. The site is also situated within a Mineral Safeguarding Area and Flood Zone 1, Critical Drainage Area.

There are no trees within the application site but a hedgerow runs along the western boundary of the unit E site and a tree is located to the south of the boundary of the unit C site.

Vehicular access to both sites is off Woodview Road.

Detailed Proposals

The application is for full planning permission.

The proposal is for the erection of two industrial buildings. The first, unit C which is positioned south of the existing western bowl industrial buildings is 1,114.48sqm. The second, unit E which is positioned west of the existing western bowl industrial buildings is 1141.41sqm. The buildings are to be used as a manufacturing units which is a general industrial B2 use. The proposed buildings would be single storey and approximately 9m in height. The proposed buildings have been designed to be sub-divided into 10 separate individual units. To the west of unit C is an area of hardstanding to provide 33 parking spaces, including 2 disabled spaces and to the north of unit E is an area of hardstanding to provide 24 parking spaces of which 8 are allocated for disabled persons. The application form refers to the provision of 73 parking spaces, but the plans suggest that the spaces above the 57 are 'possible future additional car spaces'. 8 cycle parking spaces are proposed to serve unit E and 4 spaces are proposed to serve unit C. Each of the subdivided units is served by a loading bay for large vehicles. Refuse storage is also proposed within the site.

The proposed buildings are to be finished with silver trapezoidal profile cladding with a merlin grey trapezoidal profile clad plinth. The roof is to be trapezoidal profile in goosewing grey. Doors would be dark grey steel.

It is proposed to retain existing hedges and trees to the boundaries and to provide new tree and hedgerow planting and meadow grassland.

Access to the site would be from Woodview Road.

Summary Of Consultation Responses

Drainage Engineer: Providing the surface water drainage is carried out in accordance with the latest surface water drainage drawings and hydraulic design, there are no objections on drainage grounds.

RSPB: RSPB seek clarification on the relationship between development proposed by this application and habitat mitigation provided from P/2011/0197. It is not reasonable if development or mitigation proposed as part of this in loss of mitigation or duplicates or replaces that already provided for P/2011/0197.

A cirl bunting survey on the application site and wider area in 2017 followed current RSPB guidance. This recorded three singing males associated with hedges and scrub, representing three possible breeding territories. Two of these clusters of records were very close to the application site, with one territory adjacent to the south west corner of proposed Unit E, and another south east of proposed Unit C. The nearest singing males were recorded 20m south west of proposed Unit E and 55m south of proposed Unit C.

The application site contains habitat of likely foraging value for cirl buntings. While noting that the application proposes habitat creation to include 1,895m² of meadow grassland and 22m of native hedgerow, this proposed development will result in an overall net loss (-0.31 ha) of semi-improved grassland and (singly and in combination with other already consented adjacent similar development) a change in context from former farmland (hedges and adjacent grassland) to urban. The proposed new tree planting on proposed meadow grass to the west of Unit E will not benefit cirl buntings. The result will be a loss of cirl bunting habitat.

Should planning permission be granted, RSPB recommend compensatory provision for the loss of cirl bunting habitat. Given that the application site potentially provides some foraging habitat for two territories, it is recommended that compensation provision for one territory is provided.

In accordance with best practice, the application should not be determined until data from survey in September and October 2017 is provided. In addition to requiring implementation of all mitigation measures proposed for bats, including design and control of external lighting, it is recommended that monitoring of light levels from the site on adjacent retained and created habitat once operation has commenced is required to ensure that the maximum lux levels are not exceeded.

It is recommended that any permission is conditional upon the submission of a CEMP and LEMP providing all necessary measures to avoid harmful impacts on existing biodiversity and retained habitats. Measures for habitat management, creation and enhancement should be detailed within a LEMP secured via an s106 agreement and delivered satisfactorily for the long term, i.e., the lifetime of the

proposed development. Provision of at least 10 integral nest sites for swifts ('swift bricks') (5 per unit) are recommended.

Senior Environmental Health Officer: No objections.

Police Designing Out Crime Officer: It is recommended that the developments be constructed to achieve full Secured by Design Commercial 2015 (SBD) compliance. The layout and design appear to follow a simple design where recesses appear to be minimised, which is a good design feature in enhancing surveillance opportunities and deterring unwanted trespass but it is recommended that access to the rear of buildings is prevented. Care should be taken to not inadvertently design in climbing aids. It is recommended that only approved, tested and certificated products are sourced to prevent and deter unauthorised entry into the premises. Vehicular access to unit C should be capable of being securely gated for when the premises is not in use. Care should be taken with landscaping so as not to create areas of concealment. Bicycle storage should be positioned so it is in view of active areas. Bollard lighting does not work so well from a safety and security perspective as they do not generally omit light at the right height to aid facial recognition.

Natural England: No objection subject to appropriate mitigation being secured. In order to mitigate adverse effects and make the development acceptable, the following mitigation measures are required:

Implementation of mitigation and enhancement measures put forward in the Ecological Assessment (Tyler Grange, 3 October 2017)

Mitigation measures linked to off-site mitigation associated with adjacent development

It is recommended that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Arboricultural Officer: The landscaping scheme is unsuitable for approval on arboricultural merit. An updated tree protection plan has been submitted and is now acceptable.

Ecological Consultants: The development lies within the sustenance zone/areas of the Berry Head Special Area of Conservation (SAC) for greater horseshoe bats, as designated by the South Hams SAC.

The addendum survey identifies an ash tree with high bat roost potential adjacent to the construction of Unit C. The tree should be retained and tree protection measures are implemented following BS 5837:2012. No lighting should be installed that would illuminate this tree. This should be included within the LEMP.

The ecological assessment undertaken by Tyler Grange provides a detailed and descriptive account on how to safeguard and enhance the ecology and biodiversity,

on and adjacent to the site in relation to the development. Section 4: Potential Impacts, Mitigation and Enhancement, and Section 5: Conclusions and Mechanism for Delivery of the report, recommend that a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP) be produced.

It is recommended that an ecologist is appointed as an Ecological Clerk of Works (ECow) to implement the CEMP and LEMP and administer compliance.

Compliance monitoring reports should be undertaken by the ECow for the duration of the construction and completion phases, to ensure that the mitigation and enhancement measures implemented are functional.

The proposal is considered acceptable providing the provisions listed above are implemented.

Economy and Enterprise Team, Torbay Development Agency: The Economy & Enterprise Team support the continued development and construction of the Phase 6 Western Bowl, Torbay Business Park, Whiterock. It supports a key objective in the Torbay Economic Strategy 2017 - 2022 in terms of accelerating the development of employment space geared to business needs. It will provide space for Torbay's existing, growing businesses and also help to attract inward investors.

Senior Strategy and Project Officer (Transport): Comments awaited.

HRA Consultant: Comments awaited.

AONB Unit: Comments awaited.

Summary Of Representations

No representations have been received.

Relevant Planning History

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m² A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

P/2013/1009 Reserved matters application for P/2011/0197 including appearance, landscaping, layout and scale of 2 industrial units, enabling work for new road, demolition of unit 31, relocation of 10 parking spaces for unit 33-34 APPROVED 16.10.2013

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

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

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

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

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development - EIA NOT REQUIRED

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

P/2016/0094 Erection of 42 dwellings and associated infrastructure REFUSED 24.08.2016

P/2016/0842 EIA Screening in relation to one industrial unit of 6,000 sqm floorspace - EIA NOT REQUIRED

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park APPROVED

P/2016/0411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) RESOLVED FOR APPROVAL

P/2016/0842 EIA Screening in relation to one industrial unit of 6,000 sqm floorspace - EIA NOT REQUIRED

P/2016/0880 Erection of Class B2 industrial building of 6,000 sqm floor space to include parking, external lighting, hardstanding and circulation space APPROVED

Key Issues/Material Considerations

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

Principle of the Proposed Development:

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and S70 of the T&CPA 1990 require that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The policy context for this application is complex and needs to be considered in the determination of the proposal.

The site is identified within the Torbay Local Plan as Countryside Zone and shown as a potential development site for consideration in the Neighbourhood Development Plan, primarily for employment investment (site CDSP18). The Paignton Neighbourhood Plan Policy PNP21 seeks secure jobs growth in White Rock and the surrounding areas, and refers to planning applications having secured 36,800 sq m of employment floorspace at White Rock. As the site is not allocated for employment development the application has been advertised as a departure from the Torbay Local Plan 2012-30.

The development plan is the Adopted Torbay Local Plan 2012-30. Particularly relevant policies are:

SS1: Growth Strategy for a prosperous Torbay. It indicates "Major development proposals, outside the built up area and Future Growth Areas, will need to be the subject of environmental assessment, (which considers the proposed development itself and cumulative development).

However it is also important to note that the Plan set out a growth agenda within environmental limits, and this will be important in assessing this application against the Plan taken as a whole.

SS2 Future Growth Areas. The last paragraph indicates: "All major development outside of the established built up area should be within the identified Future Growth Areas, Major development outside of these areas will only be permitted where the site has been identified by the relevant Neighbourhood Plan or a subsequent development plan document, and has first been subject to Habitats regulations Assessment that has concluded that there will be no likely significant effect on the South Hams SAC.

SS5 Employment Space identifies that sufficient high quality space will be provided to meeting existing and arising requirements of employers. Specific sites will be identified through Neighbourhood Plans and Masterplans drawing from the range of sites indicated in the Local Plan which includes SDP3.5 White Rock. The Paignton Neighbourhood Plan has been submitted to the LPA for consultation but does not allocate any sites for any form of development.

SSDP3 Paignton North and Western Area states that mixed use developments will be brought forward to provide employment, housing recreation and retail facilities, which includes the White Rock area (SDP3.5). It is intended that strategic

mixed use employment/housing development that will provide 8.5ha of employment land, around 1,200 jobs and around 350 dwellings largely over the first half of the Plan period.

C1 Countryside and the Rural economy: This indicates that development that results in the loss of open countryside will be resisted (para 1). Major development should focus on Future Growth Areas. Outside settlement boundaries (which this site is) a limited range of developments may be permitted provided that the landscape and rural character, wildlife habitats and historic features are not adversely affected and necessary mitigation measures are carried out to minimise any harm to the environment. Major industrial development proposals would not reasonably meet any of the categories 1-8 listed in the Plan.

Policy C1 goes on to refer to the need to have regard to Landscape Character Assessment and HRA/SAC matters. The Landscape Character Assessment (2010) notes the site as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It also noted that mitigation of any proposed development changes should be achieved through a combination of careful siting with strong screen planting and the reinforcement of existing field hedgerow boundaries.

In conclusion in respect of the Development Plan, the proposal would conflict with the Adopted Local Plan 2012-30: specifically Policies SS2 and C1. It is not entirely consistent with Policy SS5 as the site has not been identified in the Paignton Neighbourhood Plan. It does accord with Policy SDP3, and is a site which the Neighbourhood Plan was expected to consider, but has been omitted because of Paignton Neighbourhood Forum's refusal to make site allocations.

Other material considerations

Previous approval for a mixed use development including employment

There was a previous outline consent for mixed use development under application reference P/2011/0197 which has now expired. This area has been partly developed out, so the area is not open countryside in actual fact.

Whilst this proposal is a new full application the previous planning history on this site remains a material consideration which, in the absence of significant changes in circumstances, should be accorded significant weight. Outline consent has been granted for the mixed use development of the site. This application was approved following extensive consultation. It was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. The principle of development in this location was established by this application and the general position of the proposal is in accordance with the indicative layout agreed at outline stage being within the Western Bowl which was highlighted for industrial

development. The previous development plan, the Torbay Local Plan 1995- 2011 identified the site location as countryside zone (Policy L4) and Area of Great Landscape Value (Policy L2). This represented a similar or more restrictive planning regime than under the new Local Plan. Although LPAs are not bound by earlier decisions, the courts have held that decision-makers are required to have regard to the importance of consistency in decision-making.

The need for Employment Land

There is a very pressing need to improve the employment offer in Torbay. Torbay's jobs density (ratio of jobs per working age population) is below the regional and national average, with 74 jobs per 100 working age people, whereas in Great Britain there are 83 jobs per 100 working age people and in the South West there are 86. 15.3% of households in Torbay are workless, which is around the Great Britain average (15.1%) but above the South West Average of 13.2%. Average hourly pay for full time workers in Torbay is £12.10 compared to £14 in GB and £13.29 in the South West. It is too early to assess the impact of the South Devon Highway, but NOMIS figures indicate that at 2015 there were 57,000 jobs in Torbay, still below the pre-crash peak of 60,000 jobs (2001 and 2004). The benefits of the South Devon Highway will not be realised by Torbay if sufficient employment land is not made available. The Indices of Deprivation 2015 show much of the urban area of Torbay being within deprived areas, particularly according to income and employment deprivation domains. The site is within the top 20% income deprivation and 30% employment deprivation decile: but much of the inner urban areas are within the 10% most deprived areas of England. The Social Mobility Commission rates Torbay 313 worst out of 326 English local authorities for adult social mobility, due to the weak labour market in the area. Both the Torbay Corporate Plan 2015-19 and Torbay Economic Strategy 2013-18 seek to develop hi tech industries and manufacturing as a way of improving prosperity.

The NPPF places great weight on building a strong, competitive economy and states that planning should place significant weight on the need to support economic growth (paragraphs 19-20)

On this basis, whilst the proposal conflicts with Policy C1 of the Adopted Local Plan, there are other material considerations that are considered to tip the balance in favour of approval. Whilst the previous permission does not bind the Authority, it was made under a similar policy framework and there is a need to ensure consistency in decision making. The site has been partly built out, and is within the SDP3.5 Strategic Delivery Area. In addition, both local economic circumstances and national policy indicate that significant weight should be given to proposals that secure employment.

Mineral Safeguarding Area

The site is within the Mineral Safeguarding Area. This issue was assessed in detail at the outline application stage and as above the previous permissions are material considerations. The Local Plan continues to support the provision of employment

uses in this location. Policy M3 of the Torbay Local Plan states that the Council will seek to safeguard important mineral resources and sites. Information submitted at outline stage which established the development of the site within the Mineral Safeguarding Area concluded that the development of this site would have a minor negative impact upon the opportunity to deliver open limestone extraction within the immediate vicinity of the site. On balance and having considered the environmental impacts of extraction in this location together with previous permissions on this site, the development of this site is not considered to result in a significantly detrimental impact upon mineral extraction in this location.

Character and Appearance of the Proposed Development:

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

The design and access statement submitted with outline application reference P/2011/0197 indicated that the levels, positions and building heights are critical in terms of restricting visual impact from the west and south. The maximum height of the buildings are lower than +81m AOD, in line with the mitigation measures described in the outline application. Unit C is located on the highest part of the site and therefore has been cut into the ground so that it sits as low as possible within the landscape. The design of the building is typical of an industrial building and reflects the design of others within the Torbay Industrial Estate. The layout of the site remains inward facing with the service yards to the north of unit E and west of unit C facing away from existing and proposed woodland belts.

The proposed layout may have potential issues in relation to the wider landscape and biodiversity impact due to the use of lighting. It is however anticipated that any issues could be overcome by a sensitive lighting scheme and additional landscaping which would limit and reduce any landscape and biodiversity impact. Comments are awaited from the AONB unit and the Council's HRA advisors and revisions to the scheme may be required should concerns be raised. The Members will be updated at the Committee meeting.

Landscaping and Impact on the AONB and Surrounding Countryside:

Paragraph 115 of the National Planning Policy Framework states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. Policy SS8 states that

where development proposals fall outside of the AONB they will be supported where they conserve or enhance the distinctive landscape character and biodiversity of Torbay or where the impact of development is commensurate with the landscape importance. This policy also refers to the special landscape qualities of the area and reference to the Landscape Character Assessment. Whilst the site lies outside of the South Devon Area of Outstanding Natural Beauty (AONB) it is visible from the AONB and could have an impact on the AONB. The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It also noted that mitigation of any proposed development changes should be achieved through a combination of careful siting with strong screen planting and the reinforcement of existing field hedgerow boundaries. This type of mitigation was proposed at outline stage with a Landscape and Ecological Management Plan being secured to provide offsite landscaped buffers.

The LVIA submitted at outline stage notes the following mitigation measures in relation to the western bowl:

- a) Proposing a finer grained development of smaller units than in the permitted business park development, to give lower ridge heights, and better opportunities for integration of landscape works within and around the development
- b) The maximum height above OD has been kept to less than +81m
- c) The use of non-reflective and recessive coloured materials for the facades and roofs of buildings on the western bowl to integrate the development into its landscape setting and, where the proposed units mask existing light coloured buildings, result in a reduction in visual intrusion in views from the south and west
- d) In the western bowl development, the units have been reduced in size and are arranged around inward-facing service and parking areas. This is in order to reduce light spillage beyond the site boundaries, and so that the simple rear elevations and recessive colouring of the buildings can form part of the mitigation measures.
- e) Existing woodlands around the western end of the site would be protected and extended to increase screening effect
- f) Existing hedgerows around and within the site have been integrated into the development, to preserve their landscape, visual and wildlife benefits
- g) Around the western bowl, new woodland blocks would contribute to the existing enclosure provided by Shopdown Copse and Peter's Copse
- h) To the south of the site, significant woodland blocks and belts are proposed, to link and extend the screening and habitat value of the existing woods.

The majority of the measures listed above have been incorporated in to the scheme and the proposals would be generally consistent with the general design and

planning principles of the approved outline scheme. The applicant's submitted LVIA indicates that distant views of the application site from the north and south are possible. From the north these are described as glimpse views of the proposed roofs only and from the south these are described as viewpoints from 3-4 kilometres away from the site. Views from this distance will be seen in the context of the existing built form and will be partially screened by the existing woody vegetation. The submitted LVIA also states that the proposal will not result in any loss of existing boundary trees or shrubs and includes some new native and ornamental tree planting. The LVIA refers to the off-site tree planting to the south of the site which was secured by the outline application for Whiterock. It suggests that the proposals will be visually contained and visible only partially from a limited number of locations and concludes that the proposal will not have any significance to the visual amenity of the landscape in areas immediately adjoining the site. It also concludes that there will be a neutral to low adverse effect on users of surrounding road networks and public rights of way and that there will be a neutral visual effect on the setting of the South Devon AONB.

The locations of these two buildings are considered to be less sensitive in landscape terms than the building previously approved to the north west of the site earlier this year. It is understood from the applicant that the area off site planting which was secured by the off-site LEMP for the outline application, reference P/2011/0197 has been implemented and will contribute to restricting views towards the site from the wider countryside. In line with the above, the proposal generally follows the principles established at outline stage and as such it is anticipated that the proposed scheme can be implemented successfully without serious detriment to the wider landscape. The proposal includes landscaping proposals and biodiversity mitigation measures in order to conserve and enhance the landscape character and biodiversity in this location in line with policy SS8. Policy C4 of the Torbay Local Plan refers to the need to mitigate for the loss of any landscape features and the retention and protection of existing features. In this case additional landscape mitigation is put forward and is supported in principle by policy C4. Comments are awaited from consultees as to whether such measures are sufficient or whether further measures are required.

However comments have not yet been received from the AONB unit. These are expected to be received prior to Committee and Members will be updated on these at the meeting. This recommendation is subject to the outcome of these comments.

Should the application be approved conditions relating to the submission of a Construction Ecological Management Plan, Landscape and Ecological Management Plan, materials and external lighting would need to be imposed.

Biodiversity:

The Conservation of Habitats and Species Regulations 2010 imposes on local authorities the duty imposed by the EU Habitats Directive to ensure that plans or projects will not adversely affect European Sites such as SACs. In order to fulfil this duty, the authority must carry out a Habitats Regulation Assessment ('HRA')

process.

Paragraph 118 of the National Planning Policy Framework (NPPF) states that in terms of biodiversity, if significant harm resulting from a development within a SAC cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Similar objectives are detailed within policy SS8, Natural Environment and NC1, Nature Conservation in relation to the South Hams SAC. In addition policy NC1 of the Torbay Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. The policy continues to state that development should not result in the loss or deterioration of irreplaceable habitats or wildlife corridors. Where development in sensitive locations cannot be located elsewhere, the biodiversity and geodiversity of areas will be conserved and enhanced through planning conditions or obligations. It also notes that all developments should positively incorporate and promote biodiversity features.

The submitted ecological assessment states that no bat roosts would be affected by the development but that a mature ash tree with a high potential for bats is located outside of the boundary. The assessment states that no greater horseshoe bats were recorded within the site and very low numbers were recorded within the wider survey area. A number of mitigation measures have been put forward within the assessment relating to external lighting design, the provision of meadow grassland, native hedgerow and tree planting and enhanced roosting opportunities for bats. Comments are awaited from the Council's specialist GHB ecological consultant and Members will be updated at the Committee meeting. Whilst we still require these comments prior to confirming the acceptability of the development, comments from Natural England, RSPB and the Council's Ecological Consultants are noted. Natural England have raised no objection subject to appropriate mitigation being secured which include the implementation of mitigation and enhancement measures put forward in the Ecological Assessment and mitigation measures linked to off-site mitigation associated with the adjacent development. The Council's Ecological Consultants have made similar comments and have suggested that the scheme is acceptable subject to securing the mitigation measures proposed and a number of conditions.

RSPB however have raised concerns regarding the relationship between the development proposed and the habitat mitigation which was sought at outline stage and the impact on curlew buntings. The applicant's Ecologist has provided additional information in response to these comments and has confirmed that the design of the proposed development has taken into account the wider Whiterock development and its associated LEMP. The applicant's Ecological Consultants have provided a plan which overlays the development proposals on to the LEMP plans submitted at outline stage. This shows only a small portion of Unit C is located within the area shown as 'grassland to be managed for the benefit of wildlife'. In a different plan submitted for the offsite LEMP at outline stage, none of the areas identified as 'Western Bowl

Woodland Glade' would be affected. The applicant's Ecologist has argued that, as a worst case scenario, the grassland area affected by the development is small and a vast amount grassland will remain unaffected. In addition, the applicant's Ecologist argues that the proposed development includes areas of meadow grassland around the boundaries of Unit C and Unit E that will be managed for the benefit of wildlife, and this new meadow grassland will be more species diverse than currently exists, creating an enhancement. In conclusion they suggest that grassland will still be managed for the benefit of wildlife and any minor change relating to the total area of this grassland is not considered significant and the principles of the offsite LEMP approved at outline stage are still being met.

RSPB have also raised concerns regarding the impact upon circl buntings, noting that the development will result in an overall net loss of 0.31ha of semi-improved grassland and therefore a loss of circl bunting habitat. They advise that should the application be approved, compensatory provision for the loss of circl bunting habitat should be made and as the site potentially provided some foraging habitat for two territories, it is recommended that compensatory provision for one territory is provided. The applicant's Ecologist have disagreed with point and stated that the existing habitats do not comprise of suitable habitat requirements as detailed in RSPB guidance. They suggest that the proposals provide areas of grassland that will be managed for the benefit of circl buntings and therefore there will be an increase in circl bunting foraging habitat post-development and in light of this that no further mitigation in this regard is considered necessary. These points have been referred to the Council's Ecologists for further advice and Members will be updated at the Committee meeting.

The submitted ecological assessment indicates that no evidence of badgers were identified on the site but that there are records for badger in the local area. The submitted assessment states that precautions will be taken during the construction period to ensure no harm to badgers and that such precautions will be detailed within a Construction Ecological Mitigation Plan to be secured by condition. The assessment also states that there is suitable habitat on the site for reptiles and during the 2017 surveys low numbers of slow worms were recorded within the site and in the wider survey area. Mitigation is recommended around ensuring that no reptiles are harmed during works that could impact habitats around them, other measures are proposed which relate to habitat manipulation during active reptile season and checking of refuge areas. These measures will also be sought as part of the Construction Ecological Management Plan. Measures are also put forward to ensure that regard is had for other protected or notable species that may be present and in particular hedgehogs.

If the proposal is considered acceptable on biodiversity grounds, the submission of a Construction and Ecological Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) will be required by condition, along with conditions relating to lighting, nesting birds and nesting features will be required by condition.

Residential Amenity:

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development generally reflects that shown within the indicative layout shown at outline stage. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution. The proposed buildings are positioned some distance from proposed residential dwellings and is separated by a proposed ridge-top park and is not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing. Due to the distance separating the proposal from neighbouring dwellings, the lighting proposed and any noise as a result of the operation of the building is not considered to result in a nuisance to current or future residential occupiers of Whiterock.

Access and Parking:

The submitted Planning Statement states that traffic generation for the additional floor space has been taken into account in the overall development of the Western Bowl element of the wider White Rock scheme. Comments are awaited from the Council's Senior Strategy and Project Officer in relation to transport matters and the Members will be updated at the Committee meeting on any points raised.

In terms of car parking, to the west of unit C is an area of hardstanding to provide 33 parking spaces and to the north of unit E is an area of hardstanding to provide 24 parking spaces of which 8 are allocated for disabled persons. The application form refers to the provision of 73 parking spaces, but the plans suggest that the spaces above the 57 are 'possible future additional car spaces' suggesting their provision is not certain. The design and access statement submitted also refers to an additional 2 spaces being provided to serve unit C but this is not evident on the submitted plans. Policy TA3 and associated appendix F of the Torbay Local Plan sets a parking standard of 1 space per 35 sqm, which would require a greater number of spaces (65 spaces as opposed to the 57 proposed).

In terms of cycle provision, the proposed plans indicate 8 cycle parking spaces are proposed to serve unit E and 4 spaces are proposed to serve unit C. The design of the facility serving unit E is not clear, but in line with Appendix F, this should be secure and covered. This provision would be below the recommended standards as set out in appendix F of the Local Plan which suggests 1 space per 2 employees. The application form indicates that this development will secure employ 40 full time employees and therefor policy guidelines suggest that 20 cycle spaces are required.

As above comments are awaited from the Council's Senior Strategy and Project Officer in relation to parking and cycle storage matters and the Members will be updated at the Committee meeting on any points raised.

Drainage:

The application site is within the Critical Drainage Area as designated by the Environment Agency. Policy ER2 requires all development to seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will firstly discharge to an adequate infiltration system, a main river or watercourse, a surface water sewer or highway drain or as a last resort a combined foul sewer where discharge is controlled to be at a greenfield discharge rate. The submitted drainage strategy is in accordance with the previously approved (under outline reference P/2011/0197) and implemented surface water strategy. The Council's Drainage Engineer has confirmed that providing the surface water drainage is carried out in accordance with the latest surface water drainage drawings and hydraulic design, the scheme is acceptable on drainage grounds.

Other Issues:

Policy SC1 of the Torbay Local Plan states that all developments creating over 1,000sqm of floorspace will be required to undertake a screening for a Health Impact Assessment and a full Health Impact Assessment if necessary, proportionate to the development proposed and to demonstrate how they maximise positive impacts on health and healthy living within the development and adjoining areas. A screening has been submitted and a further assessment is not considered necessary.

Human Rights and Equalities Issues:

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations:

The proposal would result in the provision of employment space which would benefit the local economy as a result of providing 48 jobs. The construction phase will also

benefit the local economy.

S106/CIL:

S106:

The Planning Contribution and Affordable Housing SPD states that developments in Torbay will be assessed to identify where they generate net additional trips and therefore contribute towards sustainable transport. Table 4.3 of the SPD indicates Sustainable Transport contributions will be sought at a rate of £1,300 per 100sqm for B class employment but that mitigation will usually be provided for job creation/regeneration. In this case (without any mitigation) this would amount to £29,327 towards sustainable transport. Paragraph 3.17.5 of the SPD states that the cost of providing jobs is £8,000 per full time equivalent (FTE), as the development would create 40 full time jobs the mitigation would far exceed the sustainable transport contribution. Therefore nil contributions required from this development for sustainable transport. Biodiversity offsetting may be applicable to this development which is also referred to within the SPD. Further advice on this has been sought from the Council's Ecological Consultants. For small developments that involve a loss of local habitat, a contribution of £25 per sqm will be sought. For larger developments, contributions will be determined on a case by case basis. As a guide and based on the contributions required for small developments, the contribution amount would be £77,500 based on 3100sqm of species rich semi improved neutral grassland. As this contribution would mitigate a site specific impact, it is therefore a site deliverability matter which must be secured prior to determination and paid prior to the commencement of the development.

CIL:

There is no CIL liability in Torbay for this type of development.

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Proactive Working:

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.

Conclusions:

The provision of employment uses within the site is contrary to the Torbay Local Plan 2012-30. However the earlier outline application for the wider Whiterock site is a material consideration as is the creation of jobs. Whilst the outline permission has now expired, the continued provision of employment uses at White Rock is supported by current Local Plan policies and is important for economic recovery and

growth in Torbay. Consequently the principle of industrial uses on this site remains acceptable and should be supported.

However there are a number of outstanding matters and consultee responses that are required prior to confirming the acceptability of the scheme in terms of biodiversity, landscape impact and transport and parking matters. Officers believe these issues can be resolved, in compliance with the provisions of the Torbay Local Plan 2012-2030, specifically Policies SS4, SS5, SS8, SS11, DE1, DE3, TA1, TA2, TA3, NC1, C4, ER1, ER2 and appendix F of the Torbay Local Plan 2012-2030. Should such issues be resolved, conditions will be required.

Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS2 - Future Growth Areas
SDP3 - Paignton North and Western area
C1 - Countryside and the rural economy
M3LFS - Preserving local building stone
SS4 - The economy and employment
SS5 - Employment space
SS7 - Infrastructure, phasing and employment
SS8 - Natural Environment
SS11 - Sustainable Communities Strategy
DE1 - Design
DE3 - Development Amenity
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
NC1LFS - Biodiversity and Geodiversity
C4 - Trees, hedgerows and natural landscape
ER1 - Flood Risk
ER2 - Water Management

Application Number

P/2017/0406

Site Address

Ormonde Cottage
15 Newton Road
Torquay
TQ2 5DB

Case Officer

Mr Scott Jones

Ward

Tormohun

Description

Provide 12 No. 2 Bedroom Townhouses (as revised by plans received 16.11.2017).

Executive Summary

The site is the former residential plot of Ormonde Cottage, a detached dwelling that was demolished in 2016. It is a wide, shallow plot that is elevated above Newton Road, bounded by a high stone retaining wall that extends along the northern side of Newton Road close to the junction with Barton Road.

The proposal is to provide 12 dwellings, which are arranged in three mini-terraces, as revised by plans received 16th November 2017 which lower the buildings and the front retaining wall by 1.8 metres.

The dwellings are arranged over three floors which would provide 2-bed units with private amenity space at roof level. All properties have a uniform internal floor area of 71sqm.

The design is modern with two floors of mixed render and timber effect panelling under a third floor of vertical zinc cladding.

The proposed layout, massing and form is considered to present development that would be out of character with the prevailing urban grain and local form which, which would present a cramped and overdeveloped plot that would be an incongruous addition in the urban area and detrimental to the streetscene and the setting of the adjacent Torre Conservation Area.

Additionally the extent of development, which presents limited provision of outdoor amenity space and presents a number of units without parking facilities, would present a poor residential environment for future occupiers. The proposal would also impact wider local amenity by increasing the demand for street parking and increase the risk of danger to highway users in the area. Although a car-free development of 4 flats was approved by the Council in 2014 the scale of the

proposal before members is far greater and the form of units is also likely to create a more car-dependent development. The previous scheme is not considered a precedent that the Council is constrained by in terms of accepting a different form of car-free development.

Although revised plans have been submitted that lower the development by 1.8 metres there remains concern that the height of the development to the rear is likely to unduly impact residential amenity due to the overbearing nature of the development and a loss of outlook .

There also remains insufficient detail to satisfactorily demonstrate that an adequate attenuated and controlled discharge to the public sewer can be achieved, which is necessary to ensure that the development does not increase the risk of flooding within a critical drainage area.

The proposal is also considered to trigger an affordable housing provision (2 units) in order to accord with the Local Plan Policy, as the majority of the site is garden land. The applicant disagrees with this conclusion and considered that no affordable housing is necessary as the site should be considered 'brownfield' land.

The proposal is considered to conflict with a number of key policy tests and officers do not support the application.

Recommendation

Refusal: Due to the following reasons:

1. The proposal, due to its massing, form and detailed design, which is exacerbated by its elevated position at roadside, would result in a cramped and overdeveloped site that would present a visually discordant form of development which responds poorly to the prevailing local character, which would be harmful to the streetscene and setting of the Torre Conservation Area, contrary to policies H1, DE1 and SS10 the Torbay Local Plan 2012-2030.
2. The proposal, due to the lack of adequate outdoor amenity space and inadequate parking facilities and limited street parking within the vicinity, would result in a poor residential environment for future occupiers of the dwellings, contrary to Policies H1, DE3 and TA3 of the Torbay Local Plan 2012-2030.
3. The proposal, due to the height and massing of the development in close proximity to the northern boundary, would be overbearing, result in undue impact upon the amenity afforded neighbouring occupiers through visual intrusion and the loss of outlook, contrary to Policy DE3 of the Torbay Local Plan 2012-2030.
4. The proposal, due to the lack of provision of adequate off-street parking, which is likely to exacerbate the pressure upon street parking in the area, would

be detrimental to local amenity and highway safety, contrary to Policies TA2 and TA3 of the Torbay Local Plan 2012-2030.

5. The proposal, due to the lack of a detailed design for the management of surface water, fails to provide certainty that the risk of flooding to land of buildings adjacent would not be increased, within a critical drainage area designated by the Environment Agency, contrary to Policies ER1 and ER1 of the Torbay Local Plan 2012-2030.

6. The proposal, in the absence of a signed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Torbay Local Plan 2012-2030.

Reason for Referral to Development Management Committee

Major Planning Application.

Statutory Determination Period

13 weeks - agreed extension of time by the applicant to permit revised plans to be submitted and referral to the December Development Management Committee.

Site Details

The site is the former residential plot of Ormande Cottage, a detached dwelling that was demolished in 2016.

It is a wide, shallow plot that is elevated above Newton Road, where it is bounded by a high stone retaining wall which extends along Newton Road close to the junction with Barton Road. The height of the wall is approximately 4-5 metres.

To the rear of the application site the land rises again and the site is backed by a further high stone retaining wall which forms the garden boundary to domestic dwellings on Barton Road to the north.

Generally, the character of development in the immediate area is mixed. To the south on the opposite side of Newton Road sizeable Victorian Villas prevail, which are largely in hotel use. These are located in the Torre Conservation Area. The northern side of Newton Road development is principally that of interwar properties of a more domestic form and scale and in a range of differing styles and characters. These are largely in use as dwellings and small guesthouses.

Planning permission has been granted in the past for residential developments on this site, the latest being for 4 flats in the garden aside the cottage.

Date of Officer Site Visits: W/C 24.07.2017 and W/C 20.11.2017.

Detailed Proposals

The proposal is to provide 12 dwellings arranged in three mini-terraces, with each containing four properties, as revised by plans received 16th November 2017 which lower the development.

The dwellings are arranged over three floors. On the ground floor level there is one large bedroom. At first floor level there is a lounge/kitchen. At second floor level there is another large bedroom. There is access steps from the second floor up to enclosed roof terraces. All properties have a uniform internal floor area of 71sqm.

The design is modern with two floors of render and timber effect panelling under a third floor of vertical zinc cladding. The roofs are flat and there is a roof terrace enclosed by the zinc cladding topped with glazed screening between properties (approximately 450mm of glass).

There are two pedestrian access points proposed off Newton Road which are located between the gaps in the terraces. The proposed dwellings would be accessed via steps from these points. The access points also provided access to communal cycle and bin stores.

In terms of external amenity space each dwelling has small terraces off the front elevation at each floor and also has access to a roof terrace that is approximately 22sqm in size.

The revised plans submitted on the 16th November present a lower scheme with the height of the building dropped 1.8 metres by lowering the ground levels and the highway retaining wall by a similar height. The amended plans show the bins stores to be at street level which has increased the size of these storage areas and the central steps into the areas have been removed. Aside the above the arrangement and form of the scheme remains largely unaltered. In addition revised plans have been submitted on the 24th November that introduces a glazed enclosure detail to the front of the roof terraces.

Summary Of Consultation Responses

Design consultant: The general proposition of the development, in terms of it making a satisfactory and satisfying contribution to the urban setting is difficult to assess.

There is potential impact upon the amenity of occupiers to the rear through overlooking as the wider cross-section is absent.

Although amended the access is still only by means of a stepped approach and

the combined bin and cycle store is also not an ideal arrangement.

Concern on the lack of parking as the street already appears heavily utilised.

The internal layout poses some concern with ground floor bedrooms adjacent to the access routes.

In summary it would appear that the site is not ideally suited for this use and the dwellings as shown would provide a poor living environment for residents. A smaller number of larger semi-detached units (of just two storeys) might be a better prospect but the difficulties regarding access and the lack of on-site parking would remain.

Conservation officer: The density of the development on this narrow strip is considerable. Though the site is outside the Torre Conservation Area it literally and spatially overlooks it. Buildings on the site will have a marked impact on the street scene and development should be at a lower density that is more reflective of the local character. A row of twelve units is not the right approach.

Strategic planning officer incorporating Highway Authority comments: Object to the scheme. Previous concerns at pre-app stage have not been addressed. The site is on a main bus route and close to Torre Station, nevertheless it is not in the town centre. 12 dwellings will inevitably lead to additional on street parking on Newton Road or nearby side roads. This is likely to create congestion and potential community conflict over parking. It is considered that the proposal is contrary to Policy TA3, Appendix F and Policy DE1 of the Torbay Local Plan.

Council engineer: Due to the potential impact upon the retaining wall a condition similar to previous permissions should be attached should permission be granted in terms of submitting and approving engineering detail.

Drainage engineer: Due to the topography of the site infiltration drainage will not be feasible and this is agreed. Torbay is within a Critical Drainage Area and the applicant must demonstrate that the surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the development for the critical 1 in 100 year storm event plus 30% for climate change. This has not been shown. Before this planning permission can be granted the applicant must supply details to ensure that the risk of flooding would not be increased.

South West Water: South West Water has no objection subject to any surface water to be discharged to the public sewer in the event of soakaway drainage not being possible being attenuated to a rate to be agreed.

It should also be noted that a public sewer lies within the site as shown on the attached and that no buildings will be permitted within 3 metres of it.

Police Designing out Crime Officer: It cannot be assumed that residents from the proposed development will prefer to walk, cycle, or use public transport over the use of owning a private vehicle, and it is not possible to predict the exact number of vehicles that the proposal is likely to attract but given that each dwelling has 2 double bedrooms it is realistic to assume that each dwelling could attract a minimum of 2 vehicles, thus greatly introducing an increase in the number of vehicles and movement to the immediate area and placing additional demand on the local highway in terms of parking. There is a concern that this has the potential to create conflict locally amongst residents, which could escalate to criminal activity, fear of crime and/or unacceptable or aggressive behaviour due to safety and vehicle parking related issues.

The open access steps from the lower ground (street level) appear that they will be fully concealed from view. This has the potential to attract inappropriate or unwanted gatherings and provide cover for criminal activity and as such likely to increase the fear of crime, especially during the hours of darkness.

The Police Designing Out Crime Officer does not support the proposal.

Waste and recycling team: Access to the two bin stores should be level and accessible from the public highway. In addition the design of the bin store should meet the standards specified in section 4 of the Council's guidance document (Refuse Storage for new and converted residential properties: A Guide for Developers).

It is likely that individual containers would be provided for each property and it needs to be demonstrated that adequate space has been allocated for 1 x 240L wheeled bin, 2 x recycling boxes and 1 x food waste caddy per property and that the design of the store will enable adequate access to the containers.

The expected level of containers would require more space to be allocated to the bin store than the initial submission shows.

Ecology consultant: There are no major ecological constraints to the development.

The site has the potential to support nesting birds and any vegetation removal required as part of the development should be duly managed and undertaken outside of the bird nesting season (March to September inclusive). If not it should be suitably managed by an ecologist.

There is potential for reptiles to be present on the site, particularly slow-worm and possibly grass snake, therefore any vegetation clearance should be undertaken in a phased and controlled manner under an ecological watching brief.

There is little potential for enhancement of this urban development in relation to biodiversity. The National Planning Policy Framework (NPPF) seeks to maintain and enhance biodiversity within planning policies and decisions, with regards to new development. Where new builds are to be erected, the inclusion of integrated habitat by design for birds and bats should be considered.

Post development opportunities should be taken with any landscaping, to further enhance the biodiversity relative to that currently presented on site. Incorporating native tree and shrub species into the landscape design will benefit biodiversity. The addition of external insect and bird boxes within the landscaped areas, will also benefit the site in relation to biodiversity.

The above matters would address Policies C4 and NC1-Torbay Local Plan 2012 - 2030.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice/Newspaper advertisement

33 representations have been received objecting to the scheme.

Issues raised include:

- Overdevelopment
- Impact upon the conservation area as the buildings relate poorly to the context.
- Lack of parking and impact upon the highway
- Loss of privacy
- Overshadowing
- Visual impact
- Does not respond to the buildings and character of the area
- Construction impacts on the busy highway
- Impact on retaining walls
- Poor access for occupiers
- Too large for the context
- Noise and disturbance from use of the roof terraces
- Impact upon the historic property the "Knoll".
- There are restrictive covenants over the land
- Drainage impacts
- Development of garden space contrary to national policy.
- Will impact upon the quality of adjacent holiday accommodation.

Relevant Planning History

Pre-Planning Enquiries:

DE/2016/0468: 12 Dwellings - not supported

Planning Applications:

P/1988/0452 :	Erection of 1 dwelling: Refused 21.04.88.Subsequent appeal dismissed.
P/1988/2785:	Erection of detached house; Approved 17.02.89
P/1990/0500:	Erection of 2 dwellings; Approved 15.05.1990
P/1995/1063:	Renewal of above. Refused, subsequent appeal dismissed 17th March 2003.
P/2011/0272:	Erection of 4 flats (in outline): Withdrawn.
P/2012/1231:	Erection of 4 Flats (in outline): Approved. 17.09.2014

Key Issues/Material Considerations

The main concerns relate to the principle of development, its visual impact, the quality of accommodation provided, the impact on neighbours, highway and parking issues, flood risk and ecology. These will be discussed below.

1. Principle of residential development

Although absent of a dwelling since Ormonde Cottage was demolished in 2016 it is reasonable to consider the site as a residential plot in the knowledge that the dwelling was contained to the western end of the site with the remainder, a large proportion of the site, being garden.

As the majority of the development is across the former garden area the principle of development within gardens is relevant. Planning guidance in relation to garden development has been subject to change in recent years from encouragement to maximise the use of suitable garden land to provide housing opportunities, to moves to resist 'garden grabbing'. The shift in terms of the sensitivity of development within gardens is articulated in the National Planning Policy Framework (NPPF) by land in built up areas such as residential gardens being specifically excluded from the definition of previously developed land (brownfield land). The NPPF also suggests that LPAs should consider the case for setting out policies to resist inappropriate development of residential gardens, where development would cause harm to the local area.

In broad terms the use of garden land for housing development is normally resisted, unless it can be shown that its use produces a form of development that is in character with surrounding development, does not result in overdevelopment, nor have adverse impacts on amenity. Previously the scheme for 4 flats set in the garden aside the dwelling was considered to achieve such development, which was approved in 2014 (P/2012/1231).

Considering the context, where the site held a dwelling until relatively recently, and appreciating that it sits in a sustainable location in an area with an established residential character, the principle of some form of development is considered acceptable. The acceptability of the proposal for 12 dwellings as submitted is therefore considered to hinge on whether the extent and form of development is

appropriate when considering relevant Local Plan policy guidance, which is considered in more detail below. However in strategic terms the principle of a residential use of the site is supported in accordance with the aspirations of Policies SS1, SS11 and SS12.

2. Design and visual impact, including the impact upon the setting of the adjacent Torre Conservation Area

In terms of context the site is located in an elevated and prominent roadside position adjacent to the northern boundary of the Torre Conservation Area. It is therefore important to consider whether the scale and form of the proposed buildings fits with the overall grain of the area and does not therefore adversely affect the setting of the conservation area and the streetscene.

In terms of local character the northern and southern sides of this section of Newton Road display different characters. To the southern side of the road within the conservation area Victorian villa development dominates. To the northern side the character is very different, with more domestic scaled properties that largely date from the interwar period. The exception to this is The Knoll, which is a mid-19th Century property set behind the interwar roadside ribbon development.

The proposal presents a series of three mini terraces, each approximately 17 metres wide with 6 metre wide gaps between them. The form is modern with three storeys under a flat roof, which contain enclosed roof terraces. The materials are a mix of render and timber effect cladding over the initial two floors with zinc standing seam cladding at the upper floor.

In terms of the general form of development, terraces are not characteristic of this section of Newton Road. The northern side on which this plot sits is interspersed with loosely arranged dwellings that were built on the urban fringe in the interwar period. These are nearly all detached buildings. Considering the context a formal terrace arrangement as proposed is considered to respond poorly to the prevailing local character and the presentation, in such a prominent roadside location, would jar considerably with the prevailing form. The amended plans submitted that set the buildings approximately 1.8 metres lower does not demonstrably lessen the prominence of the development or its level of visual discordance. It is clear that the footprint of the development affords very little space around the buildings, which is also at odds with the defining local character where buildings are set within garden plots. When considering the extent of the built footprint and the limited extent of space around the buildings the proposal is considered to clearly overdevelop and cramp the plot, to an extent that is out of keeping with the defining character of the areas. The previous dwelling, with its long linear side garden, responded to the narrow depth of the plot by affording much needed space to the side for amenity purposes. The scheme fails to provide any notable visual relief around the buildings, unlike the previous arrangement or previous consented scheme. It is noted that the buildings include use of the flat roofs for private

amenity purposes. Roof terraces are not evident in the area and the use of these areas, including the likelihood of associated paraphernalia, is discordant with the prevailing character. Amended plans have been recently submitted that replace the parapet wall to the front of the roof terraces with a 200mm stub parapet wall with 900mm of glazing above. The amendment will heighten the prominence of the roof terraces due to the more apparent use of glazing, and the glazing will also increase the prominence in terms of use and paraphernalia within these areas. The incorporation of the roof terraces within the scheme is considered to reinforce the conclusion that the scheme overdevelops and cramps the plot, as there is little scope for private garden space at ground level.

In terms of the detailed design, the use of grey zinc cladding at the upper level seeks to present a roof element and the concept is supported. The success of the arrangement is somewhat diminished by the additional bulk of the parapet to afford the necessary enclosure of the roof terrace and the use of glazing to the front and sides (as amended), together with the absence of an obvious recess. In terms of other aspects of the detailed design although render does reflect the prevailing building material timber cladding is not locally evident and the proposed timber effect cladding that is repeated throughout the scheme is considered a harmful element of the detailed design.

All matters considered the development is considered out of character with the prevailing grain of the area and form of development and hence the scheme is unacceptable on design grounds being harmful to the streetscene and the setting of the Torre Conservation Area. The proposal is considered to conflict with the aims and objectives of Policies DE1 and SS10 of the Local Plan, which seek to secure good design and the conservation and/or enhancement of heritage assets and their settings.

3. Quality of the proposed residential environment

The proposal will provide two-bed dwellings set over three floors, each with an internal floor area of 71sqm. Policy DE3 provides size standards that all new development should accord with and although there is no standard for 2-bed dwellings over three floors the expectation for such a dwelling over two storeys is 70sqm, which is comparable. With consideration of the space afforded staircases it is a reasonable assumption that approximately 76sqm would be considered the guiding floor area necessary over three floors. Although slightly below this figure the scale of the internal floorspace is considered to provide a reasonable living environment.

In terms of light and outlook, although largely single aspect the principal elevation is south facing and there will be elevated and unobstructed vistas. The level of natural lighting and the quality of the living space would be acceptable in this circumstance.

In terms of pedestrian access, it is achieved via two access points and steps. The revised plans have reduced the number of steps necessary and although it is not ideal for there to be an absence of level access the arrangement has been improved considerably.

In regard to ancillary facilities, there is combined waste and cycle storage and following the revised plans these facilities are now provided with level access from the street and with a greater capacity due to the removal of a central staircase that previously stepped down to these facilities. There is some concern about a joint cycle and waste facility however, the scale would appear sufficient and there would also appear scope to subdivide the space to afford segregation between the two uses if considered necessary.

In terms of outdoor amenity space, Policy DE3 of the Torbay Local Plan identifies a guiding minimum of 55sqm for dwellings. The provision of roof terraces will provides each unit with 22sqm of private amenity space, although there is, as noted within this report, concerns on such a provision in respect of local character. There are also small terraces off each floor and to supplement these private spaces the proposed layout indicates pockets of communal space between and behind the buildings. It is uncertain that the limited areas between the buildings will afford pleasant and usable outdoor space when considering the oppressive nature of being enclosed on three sides with high walls. It is also uncertain how the amenity space to the rear of the western block, which is shown as being set at a higher level, will be accessed. On balance the proposal is considered to provide insufficient amenity space for the future occupants. The apparent lack of adequate space supports the previous concerns that the scheme cramps and overdevelops the site.

To conclude, although the internal living environment would appear adequate the proposal does not afford future occupiers adequate outdoor amenity space and is therefore contrary to Policy DE3 of the Local Plan.

4. Impact upon the amenity of neighbouring occupiers

The site abuts residential plots and the impact upon the amenity afforded adjacent occupiers is a key consideration.

Principally there is concern from a number of occupiers to the north in respect to the impact of the development in terms of loss of views, loss of outlook, loss of light and loss of privacy. Although the loss of a private view is not a material planning consideration the impact upon outlook, light and privacy are relevant considerations.

The agent has sought to respond to the concerns of neighbours by lowering the development by 1.8 metres. The development now extends to a similar height to the previous dwelling and to within a metre of the height of the approved scheme

for 4 flats. There is however a greater extent of development at this height and also there is a change in form to a flat roofed structure with roof terraces. In terms of impact the following is considered.

The impact upon the adjacent occupiers to the western side is considered acceptable as the adjacent property is set slightly higher than the development and the relationship is side-by-side, which will limit the extent of any impact.

The impact upon the occupiers of the properties to the rear of the western terrace is considered acceptable. The bordering properties and plots are set on higher ground to the development and there is a gap between the terrace and the communal boundary which reduces the proximity, although this does taper towards the east. It is apparent that adjacent occupiers benefit from open views southwards as the drop in levels negates the need for privacy screening at the boundary. Although it is unfortunate that the building and the proposed boundary fence will impact on the open views, adequate outlook from properties will be retained and the development will not result in undue overshadowing. There will be no loss of privacy due to the rise in land levels.

The impact upon the amenity afforded neighbouring occupiers to the rear of the central terrace is considered limited due to the established line of border hedging on the adjacent land. The terrace will protrude approximately 2-2.3 metres above the adjacent garden levels and hence will be neither overbearing nor prominent due to the height and level of screening. Again there would be no overlooking due to the land levels and parapet height of 1.8 metres enclosing the roof terrace.

The impact upon the amenity afforded neighbouring occupiers behind the easterly terrace is more sensitive, as the land levels start to fall eastwards and the gardens are smaller with buildings in closer proximity to the proposed development. From the submitted sections the lowered scheme still presents a building approximately 2.8 metres above the adjacent garden at the western end of the terrace. This rises to approximately 4 metres higher than the garden level at the eastern end. Although there is an established green border along this section that reduces the visual impact the scale of the development is considered unduly large in such close proximity to the border. There would appear an unacceptable level of impact upon the outlook of occupiers to the north, certainly towards the eastern end. For this reason the proposal is considered to conflict with Policy DE3 of the Torbay Local Plan as it unduly impacts upon the amenity of neighbouring occupiers.

5. Highway safety and parking, including the impact upon the highway retaining wall

The proposal is for 12 dwellings with no associated on-site parking.

Policy TA3 and Appendix F of the Torbay Local Plan provides key policy guidance and for dwellings there is an expected requirement of 2 spaces per dwelling,

although there is appreciation that this standard can be reduced in locations such as towns centres. Although it is not a town centre site it is reasonable to consider it a similar context due to proximity to the town centre and proximity to various sustainable transport options.

The emphasis on parking standards has moved in recent years from a position of maximum standards that sought to limit the extent of parking to try and create a shift towards sustainable modes, to a minimum standard as now emphasised in the current Torbay Local Plan. It is important to understand though that parking policies are intended to allow for car ownership and limit the proliferation of on street parking.

The starting position is that the development should seek to provide 24 car parking spaces in-line with the size standards outlined within Appendix F of the Torbay Local Plan. The proposal is absent of any off-street parking and hence the future occupiers would be reliant on using the street to park, or to not own a vehicle. When considering the form of the units and the location, which would appear to be appealing to young couples or small families amongst others, there is likely to be a demonstrable level of car ownership within the future occupiers.

In terms of the context, street parking is somewhat limited and the area appears to already experience a high demand for street parking. In this context the provision of 12 dwellings with no parking is considered to present an unacceptable form of development. The context is likely to present a poor residential environment for future occupiers where available parking within close proximity of homes may be regularly unachievable. There is also concern that the absence of parking to support a development of this scale may also increase the likelihood of conflict due to the added pressure on street parking. It is noted that the Police have objected to the scheme on these grounds and noted that local conflict on matters of parking can easily escalate to anti-social behaviour and crime. The added pressure on parking and vehicular movement could also increase the risk of danger to highway users.

With due consideration of the context the development, which seeks to provide 12 dwellings with no on-site parking, is considered to provide inadequate vehicular parking facilities, notwithstanding its central location and relatively good access to other modes of transport.

This conclusion has taken into account the fact that a parking-free development of 4 additional units was granted consent in 2014 however, this decision was made before the new Local Plan was adopted in December 2015 and each proposal should be considered on its own merits. The 2014 consent was for 4 flats and this form of development, for a lower number of smaller units, sufficiently satisfied the Council that the parking and highway impacts were on-balance acceptable. However the judgment before Members is for a scale of development that demonstrably differs from the 2014 consented scheme with 12 family sized

dwellings being sought, which is likely to have a far greater level of car ownership and use associated with it. The current proposal will, as a result of its scale and form, have an unacceptable impact upon parking and highway safety in this area.

For the reasons above the proposal is considered contrary to Policies TA2, TA3 and DE3 of the Torbay Local Plan as it fails to provide adequate vehicular parking, which is likely to impact upon local amenity and highway safety.

6. Drainage and flood risk

As Torbay is within a Critical Drainage Area the application needs to demonstrate that the surface water drainage design would not result in any increased risk of flooding to properties or land adjacent (for the critical 1 in 100 year storm event plus 30% for climate change) and the Local Plan Policy outlines a hierarchy.

Due to the topography of the site it is accepted that infiltration drainage will not be feasible. In such a circumstance attenuated and controlled discharge into the Public Sewer is an acceptable concept to follow. However the developer has failed to show that a discharge to the Public Sewer can be achieved without increase to the risk of flooding to land or buildings adjacent. Certainty is required on this prior to the grant of consent.

It is noted that South west Water has no objection subject to the discharge being attenuated to a rate to be agreed.

In the absence of a detailed drainage design that shows that surface water can be attenuated and discharged at an acceptable rate the proposal is considered contrary to Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

7. Ecology

There are no major ecological constraints to the development although the site has the potential to support nesting birds and reptiles.

It is recommended that ecology impacts can be duly managed by way of planning conditions that secure any vegetation removal required as part of the development is undertaken outside of the bird nesting season (March to September inclusive), or suitably managed by an ecologist, and for any vegetation clearance to be undertaken in a phased and controlled manner under an ecological watching brief in regard to reptiles.

Although there is little potential for enhancement of this urban development in relation to biodiversity, the inclusion of integrated habitat for birds and bats could be considered by way of condition to support the NPPF guidelines to achieve biodiversity enhancement.

In addition if supported post development opportunities should be considered by way of a landscaping scheme to seek to further enhance the biodiversity relative to that currently presented on site incorporating native tree and shrub species.

As there appears no constraint and with opportunity to respond to policy aspirations by way of detailed design elements the scheme accords with Policies C4 and NC1 of the Torbay Local Plan 2012-2030.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights.

In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

The proposal would support local construction and trade industries and future occupiers would add to the local economy in terms of household spend. However these benefits do not outweigh other concerns outlined within this report and it has not been demonstrated that a more acceptable form of development could not bring forward similar secondary benefits as a result of a residential use on the site.

S106/CIL and Affordable Housing -

Affordable Housing:

Affordable housing provision/contribution is required from this development in accordance with Policy H2 of the Torbay Local Plan 2012-2030.

For a scheme of 12 dwellings within a split greenfield/brownfield context Local plan Policy H2 indicates that 2 affordable housing units should be secured, which would normally be on-site rather than via a commuted payment.

The submitted Design and Access Statement states that the applicant considers the plot to be brownfield land and as such no affordable housing is necessary as

it falls below the trigger of 15 units as stated within Policy H2 of the Torbay Local Plan.

As cited within the *Key Considerations* section of this report residential gardens within urban areas are explicitly excluded from the definition of previously developed land in the NPPF. The majority of the site is therefore considered to be greenfield land and should be considered in-light of this aside the requirements of Policy H2.

It remains the opinion of officers that the scheme should secure affordable housing. As the proposal fails broader policy this matter has not been taken further with the applicant.

Should members wish to grant consent this should be subject to the provision of 2 affordable housing units, secured through a S106 legal Agreement.

S106:

S106 contributions are not required from this development in accordance with Policy SS5/SS6/SS7/SS9/SS11/H2/Planning Contribution and Affordable Housing SPD.

CIL:

The application is for residential development in zone 1 where the Community Infrastructure Levy (CIL) is £30 per square metre of additional gross internal floor area created. The accompanying CIL form states an additional net liable floor-space of 1300sqm for this development.

The CIL liability for this development based on the above is £39,000.

It is noted that the internal floor area of the scheme as indicated within the submitted scaled drawings suggests a total new floor area of approximately 924sqm, which would actually equate to a CIL liability of £27,720.

As CIL is principally a tax on floor area the liability will be a result of what is granted. Members are simply highlighted of the discrepancy at this moment.

EIA/HRA

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA:

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC. The proposed development is unlikely to have a

significant effect on the South Hams SAC.

Subject to achieving adequate drainage solution the proposal is unlikely to have a significant effect on the Lyme Bay and Torbay SAC.

Proactive Working

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal has been unable to satisfy the policy tests for the reasons stated in this report.

Conclusions

The proposal is considered harmful to the streetscene and setting of the Torre Conservation Area, is considered to provide a poor residential environment for future occupiers, and will unduly effect the amenity of adjacent occupiers and highway safety. For these reasons, and where there is a lack of acceptable drainage solution and unsecured affordable housing, the proposal is considered contrary to policies DE1, DE3, H1, H2, SS10, TA2, TA3, ER1 and ER2 of the Torbay Local Plan, and as such should be refused in the absence of material considerations that should deem otherwise. The proposed refusal reasons are outlined in more detail in the *Recommendation* section of this report.

Relevant Policies

TA2 Development access
TA3 Parking requirements
ER1 Flood Risk
ER2 Water Management
SS7 Infrastructure, phasing and employment
H2LFS Affordable Housing_
W1 Waste management facilities
NC1LFS Biodiversity and Geodiversity_
DE1 Design
DE3 Development Amenity

H1LFS Applications for new homes_
SS10 Conservation and Historic Environment

Application Number

P/2017/0751

Site Address

Rutland Hotel
Daddyhole Road
Torquay
TQ1 2ED

Case Officer

Mr Robert Pierce

Ward

Wellswood

Description

Conversion of former Rutland Hotel into 5 flats, partial demolition of existing buildings and construction of 1 no. 3- bed house and 2 no. 4 bed houses.(Revised Scheme 24/10/17).

Executive Summary

This is a full planning application which seeks permission to remove a number of late-20c insertions and convert the Victorian Villa (former hotel) into 5 no apartments and construct 3 no new houses. The property has most recently been in use as a hotel. It has been vacant since March 2016.

The conversion of the hotel will involve the removal of an unsightly large extension on the front elevation. The proposed dwellings would replace further modern extensions and additions to the side and rear of the villa and take the form of a modern wing attached to the main villa with a subservient link. A modern palette of materials has been selected which respect the original Victorian architecture. Vehicular access to the site would utilise the existing access off Daddyhole Road.

The principle of the change of use of the main villa from a hotel to residential use is acceptable and would be consistent with Policy TO2 in the Torbay Local Plan 2012-30. The character of the surrounding area is predominantly residential and therefore the proposed use would be appropriate in this location. The loss of the hotel would not undermine the tourism industry by reason of the size of the hotel and the facilities that it offered.

The proposed conversion of the villa would be sympathetic to the character of the building and would include removal of visually harmful extensions to the building, particularly a conservatory at the front of the building. Three new dwellings would be constructed within the curtilage of the property which would be ancillary in scale and location to the main villa. The proposed development would not harm the appearance and character of the Lincombes Conservation Area.

The proposal would deliver eight new dwellings on a brownfield site, and is considered to be an appropriate form of development in this location, that would make effective use of the site. As such it is recommended for conditional approval.

Recommendation

Conditional Approval (conditions at end of report) final drafting of conditions to be delegated to the Executive Head for Assets and Business Services.

Reason for Referral to Development Management Committee

The number of objections received to the proposed development.

Statutory Determination Period

22nd November 2017. The applicant has agreed to an extension of time until 20th December 2017.

Site Details

The Rutland Hotel comprises an original Victorian Villa of three storeys, it has a four-storey service wing and a rear interwar two-storey extension with a further floor added in the 1990's. There is also a large single storey conservatory-style extension to the front elevation and a detached two storey annexe to the side. The property stands on a large level site and is well set back from the road frontage to Daddyhole Road. It is positioned in close proximity to its rear boundary from where the land drops steeply away down onto a small development of houses on St Marks Drive to the rear.

There are two mature trees on the site which are protected by a Blanket Tree Preservation Order (TPO 1972.15)

The site is in the Lincombes Conservation Area and the Critical Drainage Area as designated by the Environment Agency.

Date of Officer Site Visit:

16th August 2017

Detailed Proposals

The proposal is to provide 8 no residential units on the site. The plans indicate that 5 of the units would be located in the main villa which would be sub-divided to provide a 2 bedroomed apartment on the lower ground floor, a two bedroomed apartment at the front of the building over the lower ground and ground floor, a 3 bedroomed apartment within the rear half of the ground floor, a two bedroomed apartment to the front of the first floor and a 2 bedroomed unit laid out over the first and second floors at the rear.

Three new dwellings would be contained within an attached 3-storey building which would replace the modern extension and annex building. The plans indicate that the two outer units have been designed as a symmetrically divided modern block each with "mirrored" accommodation comprising a kitchen/dining room and family room on the ground floor, two en suite bedrooms on the first floor and an en suite master bedroom on the second floor each with access leading out onto full width roof decks to the front and rear. These two units would have a shallow

pitched roof to reflect the main villa. The third unit would comprise a two storey subservient flat roofed link between the main villa and the other two new units with its 3 storey element being attached to the rear elevation of the villa. The accommodation would comprise an open living space on the ground floor, three bedrooms on the first floor and a fourth bedroom on the second floor with access out onto a roof deck to the side and rear. A modern palette of materials is indicated including rendered masonry, a zinc effect single ply membrane roof, and selected composite window frames and wooden doors. A covered cycle and communal bin storage shelter is also indicated adjacent to the side boundary in front new dwellings. As a result of negotiations with the agent a detached dwelling to the front has been removed and the design of the extension has been modified to include a shallow pitched roof which would be more in keeping with the style of a Victorian Villa.

Summary Of Consultation Responses

Arboricultural Officer : Observation Awaited

Senior Historic Environment Officer: Has had extensive involvement and negotiations with the agent in achieving a suitable scheme. The design of the development meets the advice given to the applicant and also meets the aspirations for the site to be open at the front.

Highway Engineer: No objections.

Summary Of Representations

Publication type: Neighbour notification letters, Site notice and Newspaper advertisement.

Objections to the proposal have been submitted. The main issues raised were as follows:

- 1) Impact of the height of roof onto property on St Marks Drive
- 2) Overdevelopment
- 3) Problems with parking
- 4) Design not in keeping with the Conservation Area
- 5) Loss of light to properties on St Marks Drive to the rear.

One of the above letters in part also supported the design of revised scheme.

Relevant Planning History

DE/2016/0469 Development enquiry for residential redevelopment. Generally supportive 16.01.2017

Extensive planning history over last 30 years relating the previous hotel use. Nothing immediately relevant.

Key Issues/Material Considerations

1. Principle of the change of use

The principle of the change of use from hotel to residential is considered acceptable.

Policy TO2 (Tourism, events and culture) of the Torbay Local Plan 2012-2030 states that for accommodation outside of Core Tourism Investment Areas a change of use will be permitted where it does not undermine the holiday character or range of facilities of the area and where the site is of limited significance in terms of its holiday setting, views etc.

The loss of this small hotel with 27 bedrooms within a largely residential context will not undermine the holiday character or range of facilities of the area. The hotel is also considered to be of limited significance which limits its value and potential in terms of holiday provision.

The loss of the holiday accommodation is deemed acceptable as it sits comfortably with the Council's Tourism Strategy (2009) "Turning the Tide for Torbay" that recommends that the oversupply of small and outmoded tourism accommodation be reduced, presenting general accordance with policy TO2 of the Local Plan.

New dwellings and large apartments are demonstrably needed in the Bay and the location, with its proximity to the town centre and to local beaches is ideal for such a form of development. It is likely that they would also be attractive as holiday lets given the size and location.

2) Impact on the character and appearance of the conservation area.

Policy SS10 (Conservation and the historic environment) of the Torbay Local Plan 2012-2030 states that development within conservation areas needs to conserve and enhance their distinctive character and appearance.

The unsympathetic extensions to the villa and the two storey annexe are to be removed. The conversion of the main villa has much that is positive and its subdivision into 5 apartments in line with the original fabric as detailed in the submitted Historic Building Appraisal which will inform the conservation of the Victorian Villa. The three new houses will be accommodated in the modern extension. This has been designed with a shallow pitched roof which together with a central bay reflects the style of the main villa. It also incorporates a subservient flat roofed link attached to the side of the villa. The windows are in proportion to those in the villa and the proposed palette of materials is considered to be sympathetic. It is therefore considered that the proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm has been weighed against the public benefits of the proposal, including securing an optimum viable residential use. It is therefore considered that the proposal complies with the requirements of Policy SS10.

3) Development Amenity

Policy DE3 (Development Amenity) requires that all development should be designed to provide a good level of amenity for future residents and should not unduly impact on the amenity of the neighbours.

The plans indicate that the proposed modern extension which will accommodate the 3 new houses will be no closer to the rear boundary than the structures to be demolished. Indeed the main element will be pulled slightly further back. The houses to the rear on St Marks Drive are set well below the level of the grounds to the Rutland Hotel and it is not considered that the proposed development will have any adverse impact by way of loss of light or overlooking. Due to the height of the proposed roof terraces, the line of vision will tend to be directed over the roofs of properties to the side and rear and therefore it is not considered that direct overlooking will be a problem. Due to a significant drop in levels and the fact the main element of the new extension will be set further back than the existing annexe it is not considered that the "new build" will have any adverse impact by way of being overbearing or lead to a loss of light.

The occupants of the new residential development will enjoy a large area of communal gardens and all of the units will have generous internal floorspace areas ranging from 97square metres to 120 square metres. This is above the requirements that are set out in Table 23 (Dwelling Space Standards) in Policy DE3

It is therefore considered that the proposal complies with the requirements of Policy DE3.

4) Design

Policy DE1 (Design) require development to be well-designed, respecting and enhancing buildings of historic interest.

The design of the development has evolved during a series of negotiations with the architect with specific input from the Senior Historic Environment Officer. The proposed scheme has resulted in the removal of unsightly 20th Century intrusions. The design is considered to be a modern interpretation of a subservient wing to a Victorian villa which has incorporated a two storey link to achieve 3 additional houses. The architectural proportions reflect the Victorian idiom and the scheme will use a sensitive yet modern palette of materials.

It is therefore considered that the proposal complies with the requirements of Policy DE1.

5) Parking

Policy TA3 requires development proposals to meet guideline requirements (2 spaces per dwelling and 1 space per flat plus visitors parking). Provision of secure and covered cycle storage is required for two cycles per house and 1 per flat.

The plans indicate that there will be 13 allocated parking spaces laid out around the entrance drive. This provides 2 spaces per dwelling, 1 space per flat and two visitors spaces. There is also a bike and bin store indicated. This arrangement meets the criteria of the guidelines and is therefore considered to comply with Policy TA3.

6) Ecology

A Bat and Protected Species Survey accompanied the application and this concluded that the existing buildings support a bat roost and the proposed works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of the local bat populations. Likewise no current, or former bird nest sites were identified in association with the surveyed buildings. The survey did recommend as a biodiversity gain that at least four inbuilt bat roosting units should be provided along with at least four bird nesting provisions. Also amphibians and reptiles should be protected during the construction works by maintaining the grassland lawn. Subject to incorporating the above measures the proposal is considered acceptable and accords with Policy NC1 of the Torbay Local Plan 2012-2030.

The site is in close proximity to Sites of Special Scientific Interest (SSSI), Daddyhole and Dyers Quarry. However the proposal falls outside the type of development that is likely to impact on the SSSI in relation to the Impact Risk Zone (IRZ) map established by Natural England.

7) Flood Risk

The plans indicate that surface water drainage will be dispersed by a soakaway and a rainwater garden. The proposal is considered acceptable and accords with Policy ER1 and ER2 of the Torbay Local Plan 2012-2030.

8) Landscape

The site is located within the boundary of a Blanket TPO (1972.15.1) however the submitted Landscaping Plan indicates the mature trees on the site will be retained. A condition will be imposed which will require tree protection measures during the construction period.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

Construction of the houses and apartments will make a positive contribution to the local economy both in terms of employment and increasing the supply of housing in a sustainable location.

S106/CIL

S106:

S106 contributions are not required from this development.

CIL:

The Rutland Hotel is within CIL charging zone 2. As a proposal for 8 units, if it were to create more than 100 sq m gross internal floorspace of new development, CIL would be charged at £70 per sq m.

The proposal would not result in any net increase in floorspace and therefore no CIL contribution is required.

Conclusions

In conclusion, the principle of the change of use to residential use is acceptable in this location. The change of use of the hotel to residential use will not have a detrimental effect on the tourism industry. The proposal will improve the appearance of the building through the removal of unsympathetic extensions. The design of the three new dwellings would be appropriate for the location.

The proposals are considered to accord with the provisions of the Torbay Local Plan 2012-2030 and all other material considerations.

Conditions

- 1) Prior to the first occupation of the building the waste storage building and covered and secure cycle parking facility shall be completed in accordance with the approved plans and made available for their respective purposes and the facilities shall be maintained in full for their respective purposes at all times thereafter.

Reason: To secure appropriate cycle parking and waste storage facilities for the development in accordance with Policies DE1, TA3, W1 and Appendix F of the Torbay Local Plan.

- 2) The development shall proceed fully in accordance with the Recommendations (Section 6) outlined within the accompanying "Bat and Protected Species" Survey (Ecologic: August 2017).

In accordance with the recommendations if any bats or nesting birds or evidence of bats or nesting birds are found then works should stop immediately and a suitably qualified ecologist should be contacted for further advice.

Prior to the occupation of the development at least four bat roosting boxes and four bird nesting boxes should be installed (as indicated at Appendices 2 and 3) of the "Bat and Protected Species" Survey.

Reason: To ensure against harm to protected species and to achieve a positive biodiversity gain in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

- 3) Prior to the commencement of development (excluding demolition) the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority:

- (i) samples or and illustrative sample chart of all external materials and hard surfacing identifying colour and form of materials,
- (ii) reveal details
- (iii) window colour and cross section
- (iv) door colour and cross section
- (vi) all means of enclosures, including balcony railings or enclosures.

The development shall proceed fully in accordance with the approved detail.

Reason: To secure appropriate form of development in accordance with Policies TO2 and DE1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement in order to establish a suitable detail of development.

- 4) Prior to the first occupation of the building the car parking facilities hereby approved shall be completed in full and made available for the purposes of parking incidental to the occupation of the building. The car parking facilities shall be maintained in full for such purposes at all times thereafter.

Reason: To secure appropriate parking facilities for the development in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan.

- 5) The approved landscaping scheme shall be implemented in full in the first available planting season following completion of the development or

occupation whichever is the sooner. Any trees, plants or shrubs that become diseased, die, are damaged or removed within 5 years of implementation shall be replaced with others of a similar size and species in the next available planting season.

Reason: To ensure that the site is suitably landscaped and trees that are lost replaced with those of a suitable species and to conform with Policy DE1 of the Torbay Local Plan 2012 to 2030.

- 6) In accordance with the submitted flood risk assessment surface water and dwg 4D 2017.12/01:20171124 drainage shall be provided by means of a soakaway and rainwater garden within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraph 103 of the NPPF.

- 7) Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, and C of Part 1, Schedule 2 (which includes enlargement, improvement or other alteration, shall be constructed (other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained).

Reason: To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity. This is in accordance with Policies H1, DE1, and DE3 of the Torbay Local Plan 2012-2030.

- 8) No demolition, site clearance or building operations shall commence until tree protection measures are agreed in writing with the Local Planning Authority following B.S.5837 2012 Trees In Relation to Design, Demolition and Construction Recommendations. Such protection shall be maintained to the satisfaction of the Local Planning Authority during the course of development operations. Any tree(s) removed without consent or dying or being severely damaged or becoming seriously diseased during the period of development operations shall be replaced in the next planting season with tree(s) of such size and species as shall have been previously agreed in writing with the Local Planning Authority.

Reason: To protect the tree which is to be retained in order to enhance the

development, biodiversity and the visual amenities of the area in accordance with Policies DE1, SS10 and NC1 of the adopted Local Plan 2012-2030 and the registered Area Tree Preservation Order 1972.01.

Condition(s)/Reason(s)

01. Prior to the first occupation of the building the waste storage building and covered and secure cycle parking facility shall be completed in accordance with the approved plans and made available for their respective purposes and the facilities shall be maintained in full for their respective purposes at all times thereafter.

Reason: To secure appropriate cycle parking and waste storage facilities for the development in accordance with Policies DE1, TA3, W1 and Appendix F of the Torbay Local Plan.

02. Prior to the first occupation of the building the car parking facilities hereby approved shall be completed in full and made available for the purposes of parking incidental to the occupation of the building. The car parking facilities shall be maintained in full for such purposes at all times thereafter.

Reason: To secure appropriate parking facilities for the development in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan.

03. Prior to the commencement of development (excluding demolition) the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority;(i) samples or and illustrative sample chart of all external materials and hard surfacing identifying colour and form of materials,(ii) reveal details (iii) window colour and cross section(iv) door colour and cross section (vi) all means of enclosures, including balcony railings or enclosures. The development shall proceed fully in accordance with the approved detail.

Reason: To secure appropriate form of development in accordance with Policies TO2 and DE1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement in order to establish a suitable detail of development.

04. The approved landscaping scheme shall be implemented in full in the first available planting season following completion of the development or occupation whichever is the sooner. Any trees, plants or shrubs that become diseased, die, are damaged or removed within 5 years of implementation shall be replaced with others of a similar size and species in the next available planting season.

Reason: To ensure that the site is suitably landscaped and trees that are lost replaced with those of a suitable species and to conform with Policy DE1 of the Torbay Local Plan 2012 to 2030.

05. In accordance with the submitted flood risk assessment surface water and dwg 4D 2017.12/01:20171124 drainage shall be provided by means of a soakaway and rainwater garden within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraph 103 of the NPPF.

06. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, and C of Part 1, Schedule 2 (which includes enlargement, improvement or other alteration, shall be constructed (other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained).

Reason: To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity. This is in accordance with Policies H1, DE1, DE3 of the Torbay Local Plan 2012-2030.

07. The development shall proceed fully in accordance with the Recommendations (Section 6) outlined within the accompanying "Bat and Protected Species" Survey (EdcoLogic : August 2017). In accordance with the recommendations if any bats or nesting birds or evidence of bats or nesting birds are found then works should stop immediately and a suitably qualified ecologist should be contacted for further advice. Prior to the occupation of the development at least four bat roosting boxes and four bird nesting boxes should be installed (as indicated at Appendices 2 and 3) of the "Bat and Protected Species" Survey.

Reason: To ensure against harm to protected species and to achieve a positive biodiversity gain in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

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

SS10 - Conservation and Historic Environment

NC1 - Protected sites - internationally important

W1 - Waste management facilities

TA2 - Development access

TA3 - Parking requirements

TO2 - Change of use of tourism accommodation

Application Number

P/2017/0966

Site Address

Former Changing Rooms
Stoodley Knowle Meadow
Torquay
TQ1 2JD

Case Officer

Mrs Saffron Loasby

Ward

Wellswood

Description

Change of Use to form Community Cafe, Store & Toilet Facilities

Executive Summary

The scheme proposes the conversion of an existing building located at the southern end of Stoodley Knowle Meadow close to Ilsham Road. Previously used as changing rooms for the adjacent sports pitches the development proposes to change the use of the property from a redundant D2 use to a seasonal community café with outside seating.

The changes proposed to the external appearance of the property are minimal. The primary addition will be a new raised external seating area comprising approximately 35sq.m. to be formed to the southeast of the existing building with surrounding balustrade. This will be made accessible for wheelchair users and people with pushchairs via a newly laid path and ramp.

The site is located in an Area of Special Advert Control and located close to several trees none of which are protected by Tree Preservation Orders. It is not located in a Conservation Area and there is no parking proposed with the change of use.

Recommendation

Approval: Subject to conditions delegated to the Executive Head for Assets and Business Services, to include those listed at the end of this report.

Reason for Referral to Development Management Committee

The building is owned by the Council and three objections have been received against the proposed development.

In line with the Council's constitution the decision should be made by the Development Management committee.

Statutory Determination Period

22nd November 2017.

Site Details

Date of Officer Site Visit: 4th October 2017

Detailed Proposals

The scheme proposes the conversion of an existing underused building located at the southern end of Stoodley Knowle Meadow close to Ilsham Road. The building was previously used as changing rooms for the adjacent sports pitches and has been unused for a number of years. The underuse of the property has meant the building is starting to deteriorate and become an eyesore within its wider setting.

The building comprises a single storey pitched roof building made of brick and a concrete tile roof. There are small areas of flat roof over the existing store and toilets. The new use will comprise a seasonal community café, store and associated toilet facilities. The primary addition will be a new raised external seating area to be formed to the southeast of the existing building with surrounding balustrade. This will be made accessible for wheelchair users and people with pushchairs. A serving hatch with canopy and roller shutter door for security when closed, will be located on the southeast elevation. The toilet facilities will be upgraded to ensure disabled access and baby changing facilities and a new timber roof will be provided. External materials include permeable paving resin bound aggregate to the terrace, paths and ramps and Millboard enhance grain smoked oak decking to the new raised terrace area (beam and block below). The external material schedule is included in the drawings submitted.

Summary Of Consultation Responses

Building Control - No comments received.

Arboriculture - The scheme is suitable on arboricultural merit subject to the noted tree report being an approved plan if consent follows.

Highways - No comments received.

Strategic Transport - The Local Plan does not set out parking standards for small cafes, but I would assess that changing rooms could generate a greater requirement during match-time peaks. There is on-street parking on Ilsham Road, and I would expect that many of the users would be existing visitors enjoying the area's recreation amenities. I note that the café would be wheel chair accessible. I think that we need a little more information about deliveries and collection of waste, as it appears that delivery vehicles will need to park on-street. A changing room (or other D2 use) could conceivably attract deliveries, so I have no in-principle objection. However it would be useful to know proposed frequency of deliveries, and to restrict them during un-social hours in the interests of residential amenity. I would suggest no deliveries before 7am or after 7pm Monday-Saturday and 10am-5pm Sundays and Bank Holidays.

An A3 use is a main town centre use, but sequential test issues can be weighed up against other benefits. The proposal brings a vacant building into use, will provide a benefit to local tourism/recreation and provides natural surveillance on the open space. On this basis I do not consider that there is an objection in terms

of retail policy.

Torbay Development Agency - Since the playing field was left to go 'wild' the changing rooms have been out of use. I also understand they have been subject to anti-social behaviour.

The TDA would support this alternative use of the changing rooms. The field has since become an area for families to walk, ride bicycles and as there is a children's play park adjacent to the building it seems to be an appropriate alternative use for local residents. There is a car park, at the Anstey's Cove end of the field. . This creation of a community café also fits with the Council's wellbeing aims.

In Ilsham Road there is a national multiple retailer convenience store, restaurants, tea rooms, bakery, public house and delicatessen and Kent's Cavern who also have their own restaurant. Some of these businesses may be against this use from a competition perspective, however a counter argument would be that a unused former changing room, attracting some unwanted attention which a local community group want to refurbish and bring back to use would be welcomed. Public toilets facilities will also be created which is helpful with the next nearest being Meadfoot Beach (Osbourne Hotel end).

Community Safety - No objections in principle but reference is made to the legislation regarding food hygiene, toilet layout, refuse areas, commercial waste, ventilation equipment for cooking, Health and Safety at work, designated smoking areas and late night refreshments regulations.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice/Newspaper advertisement.

There have been a 14 representations, the majority of which (10) are in support of the proposed development. 1 representation was neutral. 3 representations received object on the following grounds (2 objections were received from the same person):

- o impact on the local area
- o not in keeping/potential to change the character of the area.
- o sets a precedent
- o traffic and access
- o noise
- o too commercial.

The letters of support refer to the following:

- o Impact on local area
- o It provides facilities
- o Makes tourist facilities better
- o Community asset

- o It removes an eyesore
- o Residential amenity.

Relevant Planning History

No relevant planning history. Pre-application discussions took place with in principle support being given verbally subject to consideration of other planning policies.

Key Issues/Material Considerations

The key issues to consider in relation to this proposal are principle of development, design, impact on the character of the area, neighbour amenity and highway safety. The key issues and accordance with adopted policies is discussed below.

Principle of Development

An application that positively promotes a community use is considered to be acceptable in principle but it is still subject to other material planning considerations. Whilst refurbishment and reuse of the existing building promotes sustainable development there are policies that are not wholly supportive without full justification and a well-balanced assessment of the policy criteria and proposal benefits.

In terms of broader principles Policy SS3 'Presumption in Favour of Sustainable Development' of the Local Plan advises that planning applications that accord with the policies in the Local Plan (and where relevant, with policies in Neighbourhood Plans) will be approved unless material considerations indicate otherwise. This policy follows the advice within the National Planning Policy Framework (NPPF), specifically paragraph 14 that sets out a presumption in favour of sustainable development. For decision taking, unless material planning considerations dictate otherwise, this means approving proposals that accord with the development plan without delay.

Paragraph 24 of the NPPF explains how planning authorities should apply a sequential test to planning applications for main town centres uses that are not in an existing centre and are not in accordance with an up-to-date-local plan. Torbay does benefit from having an up to date local plan but the existing building is still located outside of the town centre. The closest Local Centre is Wellswood, approximately 400m southwest of the application site.

On strict policy grounds an A3 use, such as that proposed, is considered to be a town centre use, and therefore subject to a 'sequential test' (subject to the scale of the development). A sequential test has not been carried out with respect to the proposals and it is not considered that they would satisfy such a test, accordingly, the proposals do not meet the requirements of Policy TC2 (retail hierarchy). However, the proposal is for a small-scale, seasonal use that officers are satisfied will have minimal impact on the vitality and viability of the main Torquay town centre or on the nearby Ilsham local centre.

Policy SC2 Sport, Leisure and Recreation of the Torbay Local Plan 2012-2030 states that there is a presumption against the loss of existing recreational and leisure facilities unless:

1. an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
2. the loss resulting from the proposed development would be replaced by equivalent or better provision; or
3. the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

In this case use of the adjacent land as playing fields has ceased because of poor ground conditions, subsidence and inability to use heavy grounds maintenance machinery to maintain it, as a result, there is no longer a need for associated changing rooms.

The change of use from changing rooms to café is considered to meet the requirements of Policy SC2 of the Torbay Local Plan 2013-2-2030.

Design

The existing building is a late 20C single storey development that was originally associated with the adjacent sports fields. The scheme looks to retain the existing size and scale of the building and improves the external appearance through the re-use of the building and some internal and external cosmetic changes. The new paintwork to the existing windows, replacement flat roofing and improved pathway/access will refresh the currently run-down building. The new outside seating area will provide an area for people to sit and enjoy the grounds with food and beverages available. The visual changes to the building are minimal.

The design of the proposed café is considered to meet the requirements of Policy DE1 of the Torbay Local Plan 2013-2-2030.

Impact on the character of the area

It has been raised in the representations that the character of the area will change adversely as a result of the new use. The new use bringing with it more people, traffic and associated noise.

The new use is proposed as 'Seasonal' and to be open 9am to 6pm everyday during high season. The building was previously used as a changing room for those using the sports fields. This would have involved a high number of visitors during the day on a regular basis and the building could easily be reverted back to this use if the sports fields were adequate for purpose. However, officers are advised the future of this field for sport is unlikely and a new community-orientated use has been sought.

It is not considered that the use of the building as a café will have a significantly adverse impact on the character of the area. The refurbishment of the building will

improve the property visually and the use of the property will bring more people to the field and surrounding area for leisure and recreation purposes. The scheme is considered to meet a number of positive criteria within DE1 of the Torbay Local Plan 2012-2030.

Impact on Neighbour Amenity

Concern has been raised by local residents in the immediate vicinity that the impact of an intensified use will result in harm on neighbour amenity by way of additional noise and disturbance. In light of a degree of concern in terms of hours of operation and kitchen odours, which can be mitigated by condition, the proposal is acceptable on amenity grounds and meet the requirements of Policy DE3 of the Torbay Local Plan 2012-2030.

As this area is not predominately commercial in its nature and there are a number of residential properties in close proximity it is considered appropriate in this instance to agree a delivery time condition to ensure the new use has minimal impact on local residents.

Highway Safety

No objections have been raised by the Councils highway officers or Strategic Planning. The proposal is considered to meet the requirements of policy TA2 and TA3 of the Torbay Local Plan 2012-2030.

Other Matters

The proposal brings a vacant building which is in need of refurbishment back into use providing a benefit to local tourism, recreation and provides natural surveillance over the adjoining open space.

With regard to the comments received from Environmental Health, most of the requirements come under different legislation and therefore no need to condition as part of a planning approval.

Impact of the development on the neighbouring trees is minimal. The submitted Tree Protection and Method Statement should form part of approval if granted.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights.

In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

S106/CIL and Affordable Housing -

S106 contributions are not required from this development.

CIL: CIL is liable on out-of-town centre retail and food and drink development of more than 300 sq m, (at £120 per sq m). The application building comprises approximately 75m.sq. in total.

Proactive Working

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

Although arguably the proposals do not accord with policy TC1, they represent a small-scale form of development and otherwise accord with the provisions of the Torbay Local Plan 2012-2030. Other material considerations indicate that planning permission should be granted. The building will be improved visually and the new use will provide a benefit to local tourism, recreation and provides natural surveillance over the adjoining open space. The floor area of the building is not increasing and the new use will bring a redundant building back into use. The proposal is therefore recommended for approval subject to conditions.

Conditions to include:

1. A restriction on opening hours (Monday -Sunday 09.00-18.00 during High season only (April 1st to September 30th). Use and toilets to be closed out of season.
2. Extraction equipment condition - to overcome noise and odour
3. A restriction on delivery times (e.g. no deliveries before 7am or after 7pm Monday - Saturday and no deliveries before 10am or after 5pm Sundays and Bank Holidays during agreed opening times).
4. Removal of PD rights to avoid new uses without prior consultation.

Relevant Policies

-

Application Number

P/2017/1037

Site Address

Allways
Teignmouth Road
Torquay
TQ1 4TA

Case Officer

Mr Robert Pierce

Ward

St Marychurch

Description

Replacement dwelling.

Executive Summary/Key Outcomes

The application site comprises a detached bungalow which is accessed off Teignmouth Road. The proposal is for a replacement contemporary-styled two-storey dwelling.

The proposal is considered to be acceptable in this location. It does not have any material impact on residential amenity of neighbouring occupiers or the character or appearance of the locality within the context of the countryside area, undeveloped coast, village envelope and adjacent conservation area and county wildlife site. It meets the requirements of policies DE1, DE3, C1, C2, and NC1 of the Torbay Local Plan 2012-2030.

The application is recommended for approval.

Recommendation

Conditional Approval (conditions at end of report). Final drafting of condition to be delegated to the Executive Head of Assets and Business Services.

Statutory Determination Period

8 weeks, 28th November 2017.

Site Details

The application site is what remains of once a larger curtilage and dwelling that has been recently sub-divided in order to create a separate dwelling to the south east. The newly-developed neighbouring property (Boevallon House) is lower down the sloping ground and is sited closer to Teignmouth Road. The current dwelling on the site is a single storey detached bungalow with additions. The property stands in an elevated position towards the rear of the plot. The existing bungalow is typical of many properties around the Maidencombe area and is accessed directly from Teignmouth Road where it forms part of a small group of similar suburban-style properties laid out in spacious plots which together form the extensive post-war ribbon development along the Teignmouth Road.

The site is located within land which is designated in the Torbay Local Plan 2012-30 as:

- a) Maidencombe Village Envelope - Policy C1
- b) Countryside Area - Policy C1
- c) Undeveloped Coast - Policy C2

Detailed Proposals

The proposal is for a replacement dwelling that will take the form of a large two storey contemporary-styled flat-roofed building with a subterranean double garage. In addition, a carport is proposed which will be 12 metres from the dwelling and a raised terrace will project from the dwelling to the carport. The footprint of the proposed dwelling will stretch almost all the way across the rectangular/ parallelogram-shaped site.

The front elevation of the proposed dwelling takes on the form of a wave shaped 'screen wall'. The design of the building behind the screen wall is quite simplistic and has an over-sailing eaves detail for its flat roof.

The resulting accommodation will comprise a large integral garage at lower ground floor level, an open plan living area and ancillary "guest" accommodation on the ground floor with a feature spiral staircase leading to 4 en suite bedrooms on the first floor. The plans also indicate that there is potential to provide an internal lift with access to all floors from the garage. There will be access from the dining area out onto a large raised terraces projecting out from the front with a double car port below. A modern palette of materials is also indicated including a smooth rendered finish to the walls, an anthracite coloured standing seam aluminium roof and anthracite coloured powder coated windows and doors.

Summary Of Consultation Responses

18 representations were received - 12 objections and 6 in support
The main issues raised were as follows:

- Enormous
- Out of character with the local environment and other houses
- Over development
- Urbanisation of a beautiful rural village
- Impact on adjoining properties
- Too big
- Eyesore on the landscape
- Contrary to Neighbourhood Plan Visual impact
- Loss of privacy
- Design more suited to an airport surrounding
- Loss of views from neighbouring properties (Not a planning consideration)
- Loss of privacy
- Impact on values of properties (Not a planning consideration)

- Impact of Height increase.

Relevant Planning History

P/2012/0058 Alterations and formation of loft conversion and extension with internal alterations. Approved 29.02.2012.

P/2016/1155 Replacement Dwelling. Withdrawn.

P/2012/0743 New dwelling in grounds of existing property with new improved entrance and vehicular/pedestrian access, approved 21.03.13

Consultations

Highways Officer : No Objections.

Urban Design Consultant : No Objections.

Key Issues/Material Considerations

The key issues to consider in relation to this application are the impact the proposal would have on the character and appearance of the street scene and the amenity and privacy enjoyed by the occupiers of neighbouring properties. This also needs to be considered in the context of the countryside area, undeveloped coast and village envelope.

The main issues are as follows:

1) Is the principal of a dwelling in the countryside acceptable in this location?

This site is identified as being within the Maidencombe Village Envelope. This means that although the site is within the Countryside Area, Policy C1 permits development within the Maidencombe Village Envelope which can be described as suitable infill development, refurbishments and conversions in order meet the day-to-day needs of the local community, to promote the retention and development of local services and to help maintain sustainability. In this respect, the site is considered to offer the opportunity for suitable redevelopment. The proposal is therefore considered to be compliant with Policy C1 of the Torbay Local Plan 2012 to 2030.

2) Does the proposal acknowledge local character particularly in landscape terms?

The Design and Access statement advises that the unusual wave shaped façade will give reference to its proximity to the sea (visible from distant views). Paragraph 60 of the NPPF emphasises that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development or styles. It is however proper to seek to promote or reinforce local distinctiveness. There have been recent planning approvals in the area that have adopted contemporary design including:

- Port Talland Farm, Here a very contemporary dwelling replaced the original farmhouse and associated outbuildings.

- The English House, Here there are six very visible contemporary dwellings under construction.
- Boevallon, (on the adjoining plot) Here a large contemporary dwelling has been approved.

The proposed replacement dwelling will stand towards the rear of the site and although it will be in an elevated position and will have a much greater bulk and massing than the existing bungalow it will not be visually prominent from Teignmouth Road and will only be noticeable from distant views. Consequently it will have far less visual presence than the examples of contemporary architecture referred to above. The use of modern but sympathetic materials is considered to be appropriate particularly the use of render which reflects the vernacular style of Maidencombe.

It is therefore considered that the proposed replacement dwelling will comply with the criteria of Policy DE1 of the Torbay Local Plan 2012 to 2013 in that it acknowledges local character and will evolve high level architectural detail with a distinctive and sensitive palette of materials.

3) Is the plot large enough?

This is a very large plot and the proposed dwelling will sit quite comfortably across width of the top of the site. The main dwelling will be sited in a similar location to the existing property. It will be orientated slightly differently to take advantage of the commanding views and will retain a similar size of footprint. The proposed car port will extend the built form further to the north east towards Teignmouth Road than the existing property. The new property will retain generously sized gardens to the front and rear.

It is therefore considered that the proposed replacement dwelling will comply with the criteria of Policy DE3 of the Torbay Local Plan 2012 to 2013 in that there will be provision for a good level of useable amenity space for future occupiers.

4) Will the proposal cause harm to the amenity of adjoining properties through overlooking, overbearing impact, loss of light or privacy?

The plans indicate that the proposed dwelling will have a flat roof that will be less than 1 metre higher than the ridge of the pitched roof of the existing bungalow. The replacement design is a two storey building (with a flat roof) rather than a single storey with a conventional roof. The result of this is that the replacement design will (although occupying a similar sized footprint) have much greater bulk and mass and its scale will be dramatically increased. However because of the distance away from the adjoining occupiers it is not considered that it will have any adverse impact by way of being overbearing or being visually intrusive. The properties to the rear of the application site have large rear gardens and it is not considered that there will be any issues with adverse overlooking or overbearing impact. The proposed dwelling has been designed with the largest principle windows on the front elevation to take advantage of the commanding views. A potential overlooking issue into property to the front "Beovallon" has been addressed with a proposed boundary planting

scheme which will act a screen between both properties. It would be appropriate to impose a condition to ensure that this screen planting is permanently retained.

It is therefore considered that the proposed replacement dwelling will comply with the criteria of Policy DE3 of the Torbay Local Plan 2012 to 2013 in that it will not have any adverse impact on the amenities of the adjoining occupiers.

5) Are there any ecological issues?

The application was accompanied by a Bat and Protected Species Survey and this concluded that the existing building does not support a bat roost and that the proposed demolition works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of local populations. No former bird nests were identified in association with the building and there were no implications perceived for any other protected species in relation to the proposal.

S106/CIL -

The proposed replacement dwelling is located outside the built up area and therefore the rate for CIL Charging Zone 3 is applicable. This is charged at £70 per square metre for any increase in the gross internal floorspace when compared to the floor area of the existing dwelling . The submitted CIL Form has indicated that the existing floorspace is 147 square metres and the proposed floorspace will be 326 square metres. This will result in a net additional gross internal floor space following development of 179 square metres. The amount of CIL levy on the proposed development is therefore calculated to be £12,530.

Conclusions

The overall proposal is considered to be appropriate for planning approval. The size, scale and design of all elements of the application are considered to be acceptable retaining the character and quality of the countryside area and Conservation Area and the amenity of the neighbouring properties is considered to be retained in accordance with policies C1, C2, DE1, DE3, NC1 of the Torbay Local Plan 2012-2030.

Condition(s)/Reason(s)

01. The parking facilities shown on the approved plan shall be provided before the use of the development hereby approved commences and thereafter used for no other purpose.

Reason: To ensure that parking facilities will be available at all times to serve the premises, in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

02. Notwithstanding the approved plans listed under Condition P1, prior to the first use of the dwelling hereby permitted, a detailed Landscaping Scheme shall be submitted to and approved in writing by the Local Planning Authority.

The Landscaping Scheme shall include details of hard and soft landscaping, including all boundary treatments. It shall include screen planting along the north east boundary of the site to Boevallon House. This will include details of hedgerow and tree species and methods of planting. It shall also include the arrangements for the display of samples of hard surface materials on site prior to the approval of the same. The hard landscaping shall be constructed as approved prior to the first use of building. The soft landscaping shall be planted within the first planting season following the first use of the dwelling or in earlier planting seasons wherever practicable, and any trees or plants which within a period of 5 years from the completion of the building die, are removed or become seriously damaged and diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of residential amenity and design in accordance with Policy DE1 of the Torbay Local Plan 2012 to 2030, and paragraph 58 of the NPPF.

03. The existing trees and hedgerows shall be retained and protected for the duration of the construction of the development in accordance with a scheme to accord with BS5737.2012 'Trees in Relation to Design, Demolition and Construction' which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The protection measures shall be implemented at all times during the course of the construction works.

Reason: To ensure the trees are protected and in the interests of visual amenity in accordance with Policy SS8 and C4 of the Torbay Local Plan 2012-2030. This information is required prior to the commencement of development to ensure no harm occurs to existing landscape features.

04. The north east boundary planting referred to in condition 4 shall be permanently retained at a minimum height of 1.5 metres.
05. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The submitted scheme shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus an allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The dwelling shall not be occupied until the approved surface water drainage system has been completed as approved and the said approved drainage system shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with policies ER1 and ER2 and paragraph 103 of the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

06. No development shall take place until details of how foul drainage from the development will be discharged into a septic tank have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that an appropriate sewage disposal system is incorporated into the development and to comply with Policy ER2 of the Torbay Local Plan 2012 to 2030.

07. The development shall proceed fully in accordance with the Recommendations (Section 6) outlined within the accompanying "Bat and Protected Species" Survey (Ecologic: 31st October 2017). In accordance with the recommendations if any bats or nesting birds or evidence of bats or nesting birds are found then works should stop immediately and a suitably qualified ecologist should be contacted for further advice. Prior to the occupation of the development at least one bat roosting box and one bird nesting box should be installed (as indicated at Appendices 2 and 3) of the "Bat and Protected Species" Survey.

Reason: To ensure against harm to protected species and to achieve a positive biodiversity gain in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

08. Prior to the commencement of development (excluding demolition) the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority;(i) samples or and illustrative sample chart of all external materials and hard surfacing identifying colour and form of materials,(ii) reveal details (iii) window colour and cross section(iv) door colour and cross section (vi) all means of enclosures, including balcony railings or enclosures. The development shall proceed fully in accordance with the approved detail.

Reason: To secure appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement in order to establish a suitable detail of development.

Relevant Policies

-

Application Number

P/2017/1066

Site Address

Storage Land
Inter-line
Woodland Close
Torquay
TQ2 7BD

Case Officer

Verity Clark

Ward

Tormohun

Description

Proposed waste storage and recycling facility

Executive Summary

The proposal seeks the addition of a single storey structure for the storage of plastic and cardboard waste. A bailing machine will be situated inside the structure which will be utilised prior to the collection of the materials for recycling. The building will be used by the builder's merchant business situated on part of the site and will not be processing waste from outside the site. It is required to regularise the existing recycling operation on the site.

The principle of an additional commercial structure in this location is accepted and the proposal is considered to be of a suitable size, scale and visual appearance for the location within the industrial estate. The proposal is not considered to impact on the amenity of the surrounding users and is acceptable in terms of highways and drainage issues. Further confirmation is required from the Council's Arboricultural Officer on any potential impact on surrounding trees.

The application is recommended for conditional approval.

The application has been referred to the Development Management Committee as the application relates to waste and officers do not have delegated authority to determine waste applications.

Recommendation

Subject to the receipt of satisfactory further information from the Council's arboricultural officer Conditional approval with final drafting of conditions to be delegated to the Executive Head of Assets and Business Services.

Reason for Referral to Development Management Committee

The application has been referred to the Development Management Committee in accordance with the Council's constitution which states that applications relating

to the handling, transfer or disposal of waste or hazardous waste must be determined by the Development Management Committee.

Statutory Determination Period

8 weeks. The determination date is the 1st January 2018.

Site Details

The application site is part of a wider area of industrial units forming part of the Old Woods Trading Estates at the end of Woodland Close. The site of the proposed storage shed is located to the north of an industrial unit used by a window company and a gym and is currently in use as an open storage area for light industrial activity.

Date of Officer Site Visit: 16/11/17

Detailed Proposals

The proposal seeks the addition of a single storey building 15m x 5m with a maximum height of 4.7m. The structure includes a lean-to roof design with 8 rooflight and 2 roller shutter doors. The proposed building will be used for the storage of plastic and cardboard waste and recycling facilities in the form of a bailing machine.

The applicant has advised that the proposal will allow for the continued recycling of;

Plastic and cardboard average 1.5 tonnes per month mixed load

Wood and pallet waste average 3 tonnes per month.

These will then be collected from the site by specialist recycling companies. The application has been submitted because the Fire Authority have deemed the existing area within the site used for this activity as being unsatisfactory.

The on-site procedure is that incoming goods are stripped of plastic and cardboard packaging. These are separated into recyclable materials, baled and stored to await a full load for collection by recycling companies. Timber recycling takes place elsewhere on the site and is not part of this application.

Summary Of Consultation Responses

Community Safety: No comment.

Future Planning (Highways): The Supporting Statement indicates that this storage and bailing facility (for cardboard and plastic) is entirely ancillary to the function of the main employment unit and that (HGV) Vehicle Movements for collection of materials are limited to two per month. From a transport perspective, this would appear to reflect the existing vehicle operations of the site and therefore there would be no Highway objection. However, the use of the site (ancillary for the current user only and the No. of HGV collections (2 per month) may be conditioned.

Waste: No comments to make regarding this application as it does not

involve the collection of municipal waste by Torbay Council or its waste collection contractor.

Arboriculture: Awaiting comment.

Environment Agency: Awaiting comment.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice

The consultation period for the application expires on the 6th December and at the time of writing no representations have been received. The neighbour consultation period for this application is due to expire on the 06/12/17; any representations received before the date of the December Development Management Committee meeting will be reported verbally at that meeting.

Relevant Planning History

P/2004/2040 2 Storey Side Extension; Single Storey Front Extension To Office And Showroom. Approved 14/02/05

P/1997/1439 Non Illuminated Fascia Signs (As Annotated By Agent On Plans 16/12/97). Approved 23/12/97

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of development
2. Impact on the character and appearance of the streetscene
3. Impact upon the amenity of neighbouring properties
4. Drainage
5. Transport Issues
6. Trees

1. Principle of development

The proposed structure will sit to the north of an existing industrial unit used by a window company and a gym within an industrial estate to the rear of the Old Woods Trading Estate. The principle of a commercial structure in this location is therefore acceptable.

The proposed use of the structure is for storage of cardboard and plastic waste and the bailing of this material prior to collection by a recycling company. The provision for recycling within the site is considered to accord with Policy W1 of the Torbay Local Plan 2012-2030 which promotes the waste hierarchy and the use of recycling before recovery or disposal of waste.

2. Impact on the character and appearance of the streetscene

The proposed structure will be sited within an industrial setting, located to the north of existing industrial units. The lean-to roof structure will include PVC coated box profile steel sheets on the walls and roof with galvanised steel painted roller shutter doors. The design and visual appearance is considered to be appropriate for the siting within the industrial estate and appears similar in design to the existing structures in the area. The proposed structure will have limited visibility from the Woodland Close streetscene. The siting and massing of the proposed structure is considered to be appropriate for the location.

As such the proposal is considered to accord with Policy DE1 of the Torbay Local Plan 2012-2030.

3. Impact upon the amenity of neighbouring properties

The proposed structure is not considered to impact on the privacy and amenity of the surrounding users. The site is located within an industrial estate with no residential units located in close proximity. The proposed structure will be used for the storage of cardboard and plastic waste in addition to a bailing machine which will bail the waste prior to its collection by an external recycling contractor. The bailing of waste currently takes place within the site, however the current facilities have been deemed unsatisfactory by the Fire Authority. The machinery and processing is therefore currently taking place on the site, but will be moved to the proposed location of the new structure. This use within the site is considered to be acceptable and without detriment to neighbouring amenity.

As such the proposal is considered to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

4. Drainage

The applicant has indicated that surface water drainage from this development would be discharged using a soakaway or other sustainable drainage system. As such the proposal would comply with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 with the addition of a planning condition.

5. Transport Issues

Consultation from the Council's senior Strategy and Project Officer has noted that the supporting statement indicates that this storage and bailing facility is entirely ancillary to the function of the main employment unit and that (HGV) Vehicle Movements for collection of materials are limited to two per month. From a transport perspective, this would appear to reflect the existing vehicle operations of the sites and therefore there would be no Highway objection. It is recommended that a condition is added ensuring the use of the structure is ancillary to the existing builder's merchant.

As such the proposal is considered to accord with Policy TA1 of the Torbay Local Plan 2012-2030.

6. Trees

The siting of the proposed structure is adjacent to a number of trees situated on the adjacent land bounding the Bridge Retail Park. As the proposal could have the potential to impact on the existing trees comments are awaited from the Council's Arboricultural Officer. The members will be verbally updated on this at the Committee Meeting.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights.

In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

CIL -

CIL:

The application is for commercial development in zone 2 where the Community Infrastructure Levy (CIL) is £0 per square metre of additional gross internal floor area created.

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

EIA -

Installations for the disposal of waste constitute Schedule 2 development under class 11(b). The size of the site and the operation of the building are below the applicable threshold for EIA development and therefore it is concluded that the development does not constitute EIA development.

Conclusions

The proposed development constitutes a relatively modest form of development on an existing industrial site. It will regularise an existing process being carried out on the site and will support recycling of materials used by the existing builder's merchant. Subject to a satisfactory consultation response from the Council's arboricultural officer the proposals are considered to accord with the provisions of the Torbay Local Plan 2012-2030 and all other material considerations and therefore is recommended for conditional approval.

Condition(s)/Reason(s)

- 01. Ancillary use
- 02. Drainage

Relevant Policies

- DE1 Design
- DE3 Development Amenity
- ER1 Flood Risk
- ER2 Water Management
- TA2 Development access
- W1LFS Waste hierarchy_

Application Number

P/2017/1072

Site Address

Torquay Academy
Cricketfield Road
Torquay
TQ2 7NP

Case Officer

Verity Clark

Ward

Tormohun

Description

Extension to Torquay Academy, comprising 6no. Classrooms, 3no. Dry changing rooms, associated internal access corridors and 1-to-1 interview/group room. Extension to be 3 storeys in height with facade treatments and layout to match existing Academy building.

Executive Summary

The application relates to the Torquay Academy school site off Cricketfield Road, Torquay. The proposal seeks consent for extensions and modifications in order to provide 6 new classrooms, 3 dry changing rooms, access corridor and group 1 to 1 room with ancillary storage. The proposal also includes works to form the link between the existing and proposed building with reinforcement of the retaining wall and the realignment of the existing external steps and works to the hardstanding.

The proposed extension extends out from the South East corner of the existing main educational block which is visible from Cricketfield Road. The building will feature a linking flat roof element and a mono-pitched roof design. The design is clearly modern and seeks to assimilate with the main building. It is considered an acceptable addition to the site.

Impact upon local amenity will be negligible as the proposals are set amongst the existing building pattern and are relatively central to the site. The additional facilities are unlikely to present any notable change to the amenities afforded adjacent occupiers when considering the current function of the site and buildings.

The proposal appears to not facilitate an increase in staff or pupil numbers however clarification is sought from the applicant on this point. The response will confirm if further detail on the parking arrangements is required.

A method statement with supporting methodology for soil improvements for the Tulip tree is required prior to determination alongside and a detailed landscaping plan to mitigate for the trees to be lost will be required by condition.

National planning guidance in the National Planning Policy Framework (NPPF) encourages local planning authorities to work positively and collaboratively with

schools to help to meet their needs in providing sufficient choice of school places and places great importance on this issue. Policy SC3 (Education, skills and local labour) of the Torbay Local Plan 2012-2030 supports provision of new educational facilities in Torbay.

The application is recommended for conditional approval.

Recommendation

Subject to the receipt of additional information relating to highways and arboriculture, conditional approval delegated to the Executive Head for Assets and Business Services in order that the detailed wording of the conditions can be finalised.

Reason for Referral to Development Management Committee

The application has been referred to the Development Management Committee in accordance with the Council's constitution which states that applications relating to land owned, controlled or occupied by the Council (unless there are no objections or it is a minor variation to an existing planning permission) must be referred to the Development Management Committee.

Statutory Determination Period

8 weeks. The determination date is the 19th December 2017.

Site Details

The site is the existing Torquay Academy School, which has been redeveloped into a modern educational facility held in a contemporary multi-winged building complex central within the site, supplemented by a detached sports hall and hard and soft outdoor play/games space.

The main access is from the south off Cricketfield Road which sits aside the open sports field.

Closer to the main block sits the detached sports hall which is adjacent to an all weather pitch and a MUGA.

There are no designations over the land although Torbay more widely is designated as a Critical Drainage Area by the Environment Agency.

Date of Officer Site Visit: 03/11/17

Detailed Proposals

The proposal seeks permission for an extension and modifications in order to provide 6 new classrooms, 3 dry changing rooms, access corridor and group 1 to 1 room with ancillary storage. The proposal also includes works to form the link between the existing and proposed building with reinforcement of the retaining wall and the realignment of the existing external steps and works to the hardstanding.

The proposed extension extends out from the South East corner of the existing main educational block. The building will feature a linking flat roof element and a mono-pitched roof design for the main classroom block. The extension is three stories with a total height of 13.3m at its highest point from ground level. The highest point of the extension will sit 0.1m lower than the existing eastern wing which it attaches to. The lower ground floor will be finished with blue-black brick whilst the upper floors will feature fibre cement rainscreen cladding and aluminium windows which will match the existing block. Elements of glazing in the form of a curtain wall are included whilst the flat roof will be a continuation of the existing flat roof utilising sarnafil single ply membrane with aluminium capping and fascias. The design is clearly modern and seeks to assimilate with the main building with a continuation of the glazed corridor along the Northern elevation.

The proposal will be visible from Cricketfield Road although as the extension extends off of the main education block which is separated from the street scene by the schools playing fields, the extension will not be overly dominant within the street scene.

The design and access statement notes that the proposed extension is required to provide new teaching space for the existing students.

Summary Of Consultation Responses

Community Safety: This department has received a number of complaints about noise arising from the school from residents in Audley Avenue. Whilst this cannot be considered a statutory noise nuisance because the school is not acting unreasonably, it does make sense for the school to design out some of the issues that can give rise to complaints about noise. It would seem, that as alterations are to be made to the school, it would be appropriate to see how we could mitigate some of the issues raised by residents.

Future Planning (Highways): Policy TA3 of the Local Plan Appendix F sets out the parking standards for secondary schools. Higher educational establishments should provide 1 space per 3 staff (FTE) and 1 space per 20 students and 1 cycle space per 10 students. The D&A Statement implies the 6 new Classrooms (615sq m GIA) will serve the existing school pupils, however Section 2.1 of the Travel Plan notes the intended expansion of the school from 1,100 pupils to the (current) 1,200 pupils and 160 staff, with intentions to increase to 1,300 pupils (Sept 17) and 1,400 in Sept 2018. This implies the extension (six classrooms of 32 pupil capacity) will provide the 200 extra place capacity for planned future expansion by September 2018. The Travel Plan indicates that the existing travel modes are as follows: Pupils: 61% of the 1,271 pupils walk to school. With 36% travelling by car. And only 2 % of pupils cycle. Staff: 85% of the Staff travel By PMV of which 69% are single occupancy. The submitted mode share suggest a target of 30% for pupils and 65% for staff. Policy TA2 of the Local Plan seeks a 30% modal shift of all potential users 30% pupils and 30% staff. It would be helpful to see a 30%

modal shift (i.e. pupils: 36% down to 25% and staff: 85% down to 60%) over 5 to 10 year period.

Police Liaison Officer: It is appreciated that the proposal is for an extension to the existing building but designing out opportunity for criminal or antisocial behaviour should still be considered.

Arboriculture: Agreement is made with the arboricultural assessment of the trees on site and the suitability for mitigation to address visual loss in this instance. No detail of the required AMS (CT_4579.17_AMS) for tree protection of the prominent Tulip tree during step creation is attached despite the target note on the TPP. The cycle of decline of the prominent tree should be addressed by way of rooting environment improvements including aeration and incorporation of organic matter. Given the visual prominence of the mature Tulip tree I would be unable to recommend approval on arboricultural merit prior to submission of the necessary method statement for review with supporting methodology for soil improvements for the Tulip tree. A detailed landscaping plan to mitigate for the trees to be lost should also be submitted for review.

Ecology: There are no ecological constraints to the development. Any vegetation clearance should be undertaken outside of the bird nesting season (March to September inclusive). Clearance works should be undertaken during the winter months (October to February inclusive), as this is generally when birds are less likely to be breeding. The installation of swift boxes should be considered. We do recommend that limited external lighting be used and that security lighting should be on a fixed-timer. Bollard lighting should be fitted with down-lighters. Cowls and louvers should be installed to reduce light spill. Any lighting should be of a sensitive design and be positioned and angled away from any linear vegetation, i.e. hedgerows or tree-lines that may be used as flightpaths for bats. There should be no increase in ambient light levels post-construction. Post development opportunities should be taken with any landscaping to further enhance the biodiversity relative to that currently presented on site.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice

6 representations have been received. 1 representation and 5 objections. Issues raised:

- Neighbour amenity
- Noise
- Impact of existing building
- Impact on property values
- Dirt from construction
- Highways and parking.

Relevant Planning History

P/2016/0056 New multi use hall, dining area extension and refurbishment of

existing drama space to provide additional classrooms. Pending consideration

P/2009/0799 Amendments to applications P/2007/0151/MR3 and P/2007/1336/PA - raising existing school playing fields by maximum of 1.5M and approved all weather pitch and associated floodlights by maximum of 1.5M. Approved 01/10/09

P/2008/0672 Minor amendments to previous approval (ref app P/2007/0151/MPA) for new school with access, parking and landscaping. Approved 10/6/2008.

P/2007/1336 Floodlighting system to approved all weather pitch. Approved 5/10/2007.

P/2007/0151 Demolition of school; build new school with associated areas, parking and landscaping; reposition all-weather pitch. Approved 30/4/2007.

P/2006/0027 Room extension on building beside car park (as revised by plans received 14/2/2006). Approved 21/2/2006.

P/2005/0446 Demolition of boys gym; erection of new music suite block. Approved 26/5/2005.

P/2003/1965 Single storey extension to existing school reception with roof lights. Approved 12/1/2004.

P/2003/1496 New sports hall (facing Cricketfield Road) and changes to parking areas. Approved 31/10/2003.

P/2002/0871 Erection of extension to science prep room. Approved 25/7/2002.

P/2002/1785 Erection of 2 storey extension to enhanced provision unit. Approved 23/12/2002.

P/2000/1482 Erection of detached building to provide "pre-school" teaching facilities. Approved 20/12/2000.

P/2000/0563 Alterations and erection of extension to form drama, studio and dining hall (revised scheme). Approved 1/8/2000.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of the development
2. Impact on Highways
3. Impact on trees and ecology
4. Design
5. Impact on Amenity
6. Drainage.

1. Principle of the Development

Policy SS11 (Sustainable communities) of the Torbay Local Plan 2012-2030 states that proposals that regenerate or lead to the improvement of social, economic or environment conditions in Torbay will be supported in principle. Policy SS11 details further that development proposals will be assessed against 13 criterion which includes promoting social inclusion, and seeking to eliminate exclusion based on access to housing, health, education, recreation or other facilities. Policy SC3 (Education, skills and local labour) of the Torbay Local Plan 2012-2030 specifies that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. Policy SC3 notes further that this includes the expansion of schools to meet identified short to medium-term needs. Policy SC5 (Child poverty) of the Torbay Local Plan 2012 states that new development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. This includes the need to support investment in existing schools and make appropriate contributions, and improve equality of access to high quality education provision for all, including early-years education.

Furthermore, Paragraph 72 of the NPPF specifies:

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

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

The proposed development would improve the education facilities in the area. As such, it is deemed that the principle of the development would accord with Policies SS11, SC3 and SC5.

2. Impact on Highways

Consultation from the Council's Senior Strategy and Project Officer has noted that Policy TA3 of the Local Plan Appendix F sets out the parking standards for secondary schools of 1 space for 2.5 staff (FTE) plus 1 cycle space per 10 students with a proportion of disabled parking and non-motorised scooters (per 10 pupils). Higher educational establishments should provide 1 space per 3 staff (FTE) and 1 space per 20 students and 1 cycle space per 10 students. A Transport Assessment should be provided for proposals generating over 30 trips during the morning peak (8-9am). From the information provided to date it is unclear if the proposal triggers this requirement.

The Travel Plan (para2.3.23) states 100 car parking spaces, including 3 disabled bays, 3 car share bays and 20 cycle storage spaces for pupils are currently provided on the site. It is unclear if there are changing facilities for staff and if there is any electrical car charging provision and non-motorised scooter parking facilities.

The Design and Access Statement implies the 6 new Classrooms will serve the existing school pupils, however Section 2.1 of the Travel Plan notes the intended expansion of the school from 1,100 pupils to the (current) 1,200 pupils and 160 staff, with intentions to increase to 1,300 pupils (Sept 17) and 1,400 in Sept 2018. This implies the extension (six classrooms of 32 pupil capacity) will provide the 200 extra place capacity for planned future expansion by September 2018. It is not clear if increased intake of students will be disaggregated across the 11-16 range or if it will include the sixth form pupils and the anticipated staff numbers by September 2018. The Travel Plan indicates that the existing travel modes are as follows: Pupils: 61% of the 1,271 pupils walk to school. With 36% travelling by car. And only 2% of pupils cycle. Staff: 85% of the Staff travel By PMV of which 69% are single occupancy. The submitted mode share suggest a target of 30% for pupils and 65% for staff. Policy TA2 of the Local Plan seeks a 30% modal shift of all potential users 30% pupils and 30% staff. It would be helpful to see a 30% modal shift (i.e. pupils: 36% down to 25% and staff: 85% down to 60%) over 5 to 10 year period. These targets might be assisted with an increase in the proportion of 'car share' parking spaces and a large increase in the provision of covered cycle storage and associated changing/locker facilities for staff and sixth form students. Alongside any measures to improve pedestrian and cycle issues/access set out in Travel Plan Section 2.7.

The Strategic Transport Officer advises that the proposal should confirm if the extension will facilitate additional pupil numbers and that a revised Travel Plan should be submitted which sets out how a 30 % modal shift can be achieved, as required by Policy TA2 (Development access) of the Torbay Local Plan 2012-2030 these comments have been passed on to the applicants and the Members will be updated at Committee.

3. Impact on trees and ecology

Consultation from the Council's Arboricultural Officer has stated that agreement is made with the arboricultural assessment of the trees on site and the suitability for mitigation to address visual loss in this instance. No detail of the required AMS (CT_4579.17_AMS) for tree protection of the prominent Tulip tree during step creation is attached despite the target note on the Tree Protection Plan. The cycle of decline of the prominent tree should be addressed by way of rooting environment improvements including aeration and incorporation of organic matter. Given the visual prominence of the mature Tulip tree he would be unable to recommend approval on arboricultural merit prior to submission of the necessary method statement for review with supporting methodology for soil improvements for the Tulip tree. A detailed landscaping plan to mitigate for the trees to be lost

should also be submitted for review via condition.

These comments have been passed on to the applicant and the Members will be updated at Committee.

An ecological assessment dated December 2015 and an addendum to this assessment dated September 2017 have been submitted. It is recommended that construction should be undertaken in accordance with CIRIA guidance (2001) and BS 5837:2012 Trees in relation to design, demolition and construction. Care should be taken to avoid damage to the Root Protection Area (RPA) of the mature tulip tree immediately to the north and tree and ornamental shrub removal should be undertaken outside the main bird nesting season (i.e. undertaken between October and February), or subject to a pre-start check by an ecologist to ensure that no nests were present. It is also recommended that a minimum of two swift nest boxes be installed within the northern walls of the proposed classroom extension. This would create new bird nesting habitat within the site. The Council's external ecological consultants have confirmed that proving the recommendations of the addendum are adhered to the proposal will comply with Policy NC1 of the Torbay Local Plan 2012-2030.

4. Design

The impact of the proposals upon the character and appearance of the area is considered acceptable.

The proposed scale and height of the classroom extension is considered to respond to the context set by the existing building and hence it will sit comfortably in its surrounds. The design of building is clearly modern and will align itself comfortably with the wider built form, reinforcing the modern character of the educational site and the existing building which it extends beyond. Visual interest is added by way of design which incorporates fibre cement rainscreen panels, blue-black brick and elements of glazing.

The location of development within areas with established buildings will help limit any impact and the proposals appear a pragmatic solution for further development. The scale and form of development is consistent with the current character and the proposals would hence have little impact upon the character and appearance of the school site and its contribution to the wider built environment.

The proposed reinforcement of the retaining wall and the realignment of the existing external steps and works to the hardstanding are considered to be appropriate.

The proposal is considered acceptable in design terms and in accordance with Policy DE1 (Design) of the Torbay Local Plan.

5. Impact on Amenity

Representations from local residents have raised concerns about the noise impacts and have highlighted existing concerns with the relationship between the school and nearby residential properties.

Consultation from the Council's Senior Environmental Health Officer has noted that the Council has received a number of complaints about noise arising from the school from residents in Audley Avenue. Whilst this cannot be considered a statutory noise nuisance because the school is not acting unreasonably, it does make sense for the school to design out some of the issues that can give rise to complaints about noise. Complaints have been received about a great many issues, one of which is noise from the Multi Use Games Areas affecting the residents at the rear of Audley Avenue. It would seem, that as alterations are to be made to the school, it would be appropriate to see how we could mitigate some of the issues raised by residents. In order to mitigate the effects of noise from the existing development and the addition of the reflected sound from the proposed development, he recommends that a solid barrier be provided between the residential accommodation and the Multi Use Games Area that removed line of sight to the domestic residential accommodation. This should significantly reduce noise affecting residents to the rear of the premises.

Given the distance of the proposed extension to the nearest residential properties it is considered that there will be no material loss of amenity to the occupiers of these properties from the proposed development and the character of the relationship between the school and residential properties will be largely unaffected. The proposal will primarily provide additional classrooms and does not provide additional outside space for sport or recreation. It is not considered that the proposal would result in a loss of privacy to the occupiers of the adjacent properties. It is noted that there are existing concerns with the use of the school however it is not considered reasonable to request noise mitigation measures for an existing problem which will not be exacerbated by the current proposal.

The development impact and potential liabilities upon third party properties is a civil matter and, where the land is considered capable of being developed, should not inhibit the granting of planning permission.

The proposal, for the reasons above, is considered to retain suitable levels of amenity for adjacent occupiers, in accordance with Policies DE1 (Design) and DE3 (Development amenity) of the Torbay Local Plan 2012-2030.

6. Drainage

Detailed information has been submitted with regards to surface water drainage from the proposed development. The Council's Drainage Engineer has raised a concern with the details currently submitted. As such, a condition is recommended which states that the drainage should be constructed to comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30%

for climate change.

Human Rights and Equalities Issues -

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

CIL -

CIL: The application is for commercial development in zone 2 where the Community Infrastructure Levy (CIL) is £0 per square metre of additional gross internal floor area created.

The CIL liability for this development is Nil as the CIL rate for this type of development is Nil and therefore no CIL is payable.

Conclusions

Subject to the imposition of conditions and the submission of further information relating to highways and arboricultural matters, the proposals accord with the provisions of the Local Plan and are recommended for approval.

Condition(s)/Reason(s)

01. Drainage
02. Trees
03. Ecology - to include provision of swift boxes
04. Material finishes
05. Highways travel plan
06. External lighting
07. Construction Management Plan
08. Landscape Plan

Relevant Policies

DE1 - Design

DE3 - Development Amenity
SC3 - Education, skills and local labour
SC5 - Child poverty
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity_
ER1 - Flood Risk
ER2 - Water Management
SS11 - Sustainable Communities Strategy