



Friday, 3 August 2018

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 13 August 2018

commencing at **2.00 pm**

The meeting will be held in the Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ

Members of the Committee

Councillor Barnby
Councillor Bye
Councillor Hill
Councillor King
Councillor Kingscote

Councillor Morey
Councillor Pentney
Councillor Stockman
Councillor Tolchard

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. **Election of Chairman**
To elect a Chairman/woman for the remainder of the 2018/19 Municipal Year.
2. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Appointment of Vice-Chairman**
To appoint a Vice-Chairman for the remainder of the 2017/19 Municipal Year.
4. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on 9 April 2018.
5. **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.)
6. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
7. **Oxen Cove Car Park, Brixham (P/2018/0219)** (Pages 7 - 20)
Construction of an 8m wide, 60m long jetty from Oxen Cove Car Park.

8. **Brampton Court Hotel, St Lukes Road South, Torquay (P/2018/0492)** (Pages 21 - 32)
Change of use from C1 (hotels) to Sui Generis (Student Residence) (retrospective) (proposal/description amended 24 May 2018).
9. **Maycliffe Hotel, St Lukes Road North, Torquay (P/2018/0493)** (Pages 33 - 44)
Change of use from C1 (hotels) to Sui Generis (Student Residence) (retrospective) (proposal/description amended 24 May 2018).
10. **Ocean Court, Vane Hill Road, Torquay (P/2018/0531)** (Pages 45 - 50)
Replacement of pitched roof to provide living space and roof terrace.
11. **Park Railings, Victoria Park, Paignton (P/2018/0117)** (Pages 51 - 54)
Application for advertisement consent for the installation of five banner advertisements on the railings at the Torquay Road frontage of Victoria Park.
12. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
13. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 8 August 2018. 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

9 April 2018

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Doggett, Hill, King, Tolchard, Winfield and Darling (M)

(Also in attendance: Councillor Bye)

74. Apologies for absence

An apology for absence were received from Councillor Morey.

It was reported that, in accordance with the wishes of the Liberal Democrat Group, the membership of the Committee had been amended for this meeting by including Councillor Darling (M) instead of Councillor Pentney.

75. Minutes

The Minutes of the meeting of the Development Management Committee held on 12 March 2018 were confirmed as a correct record and signed by the Chairman.

76. Land South Of Yalberton Road, (Yannon's Farm), Paignton P/2014/0983

The Committee considered an application for 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).

Prior to the meeting written representations were available on the Council's website.

Resolved:

Approved, subject to:

- (i) no objections being raised by the Council's ecological advisor with Cirl bunting mitigation required for 6 pairs (1 pair on site and 5 pairs off site); and
- (ii) all other Section 106 Agreement obligations to remain as set out in the submitted report.

77. Land Off Brixham Road (Former Nortel Site), Long Road, Blatchcombe, Paignton P/2018/0053

The Committee considered an application for a reserved matters application re: P/2017/1041 Variation of condition on application P/2014/0947 (as amended by S73 applications P/2016/1372, P/2017/0123 and P/2017/0571): (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.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's website.

Resolved:

The reserved matters relating to scale, location, appearance and landscaping be approved subject to:

- (i) receipt of revised plans showing detail of the eastern elevation of the retail building that fronts Brixham Road and the adjacent boundary wall above the service yard being faced in natural local stone, that is acceptable to Officers, being delegated to the Executive Head of Assets and Business Services;
- (ii) resolution of the landscape detail, to include native trees, being delegated to the Executive Head of Assets and Business Services; and
- (iii) final drafting of conditions, including those set out in the submitted report, being delegated to the Executive Head of Assets and Business Services.

78. 42 Whidborne Avenue, Torquay, TQ1 2PQ P/2017/1182

The Committee considered an application for a new dwelling with accommodation over 3 floors, associated parking, double garage (revised plans received 16 February 2018).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's website. At the meeting Alex Hamer addressed the Committee against the application and James Durant addressed the Committee in support of the application. In accordance with Standing Order B4.1, Councillor Bye addressed the meeting.

Resolved:

That all reserved matters in respect of layout, appearance, landscaping and scale be approved with the final drafting of conditions (to include construction method statement, materials, drainage, no permitted development, OS datum and

implementation of landscaping) being delegated to the Executive Head of Assets and Business Services.

79. Limestone Court, St James Road, Torquay P/2018/0100

The Committee considered an application for 2 new dwellings, parking area and associated engineering operations to cliff face.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's website. At the meeting Magenta Gunthrie addressed the Committee against the application.

Resolved:

Approved subject to

- (i) no representations being received during the re-consultation period that raise new issues;
- (ii) the final drafting of conditions (to include those set out in the submitted report , pre-commencement badger survey, contamination condition to deal also with garden issues with contamination, geo-technical condition in line with the submitted report recommendations, parking spaces to be restricted to each residential property and no other purposes and condition requiring access through Limestone Court to be maintained permanently) being delegated to the Executive Head of Assets and Business Services;
- (iii) the informative set out in the submitted report; and
- (iv) establishing if Lime Kiln is in the applicants ownership and if so confirming their agreement to a scheme of preservation to the preserve historic asset.

Chairman

Application Number

P/2018/0219

Site Address

Oxen Cove Car Park
Brixham

Case Officer

Gary Crawford

Ward

Berry Head With Furzeham

Description

8m wide, 60m long jetty from Oxen Cove Car Park

Executive Summary/Key Outcomes

The application is for the construction of a jetty from within Oxen Cove car park and extending into Brixham outer harbour. The jetty would be 8m in width and 60m in length, and would be designed to accommodate an articulated lorry.

Oxen Cove and Freshwater Cove are identified in the Torbay Local Plan as sites for mixed use harbour-side development with a focus on marine-related employment uses. The proposal would provide additional port infrastructure to support the marine economy. It is considered that, subject to conditions, the proposal would be acceptable, and it is recommended that planning permission be granted.

Recommendation

Conditional approval (conditions at end of report).

Reason for Referral to Development Management Committee

As the development is on Council-owned land and objections have been received, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

The determination date was 23rd May 2018. The application has exceeded the determination date to allow the submission of additional information.

Site Details

The site is comprised of Oxen Cove car park and an area of the harbour alongside it, all of which forms part of the Brixham Harbour estate. The car park was formed by land reclamation around 1990 and comprises of a rock armoured revetment and retaining bitmac-surfaced fill material. Oxen Cove car park is accessed via Freshwater car park and Blackball Lane. The South West Coast Path is routed through the application site, between the car park and the rock armour revetment. The nearest residential properties to the site are a block of flats at Dalverton Court which are approximately 30m to the west of the site.

The application site is located within the Brixham Town Conservation Area and Flood Zone 3. The site is approximately 400m south of the Lyme Bay and Torbay Special Area of Conservation (SAC); and 1.3km west of the South Hams SAC. The site is approximately 400m south of the Torbay Marine Conservation Zone (MCZ). Oxen Cove and Freshwater Cove are identified as a site for mixed use harbourside development with a focus on marine related employment uses in Policy SS5 (Employment Space) of the Torbay Local Plan and Policy J7 (Oxen Cove and Freshwater Quarry) of the emerging Brixham Peninsula Neighbourhood Plan identifies Oxen Cove as employment land, primarily marine related.

Detailed Proposals

The application is for the installation of a jetty supported by a steel tubular system. The submitted Design and Access Statement details that the purpose of the jetty is to provide a shellfish landing facility to service an offshore mussel farm. The jetty would be 8m in width and 60m in length, and would be designed to accommodate an articulated lorry. The jetty would feature security gates adjacent to the South West Coast Path to prevent unauthorised access, and downward lighting.

The submitted operating statement proposes that the jetty would be used for loading and unloading of goods and personnel only and that it would not be used as a permanent berth. As such, except in emergencies, vessels would not be granted permission to remain at the berth once loading and/or unloading operations were completed and it is not envisaged that vessels would remain overnight. Expected vehicular movements on and off the jetty are expected to be up to 3 lorries per day. A fork lift truck may also operate on the jetty to facilitate loading/unloading operations.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Brixham Peninsula Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters

referred to in this report.

Summary Of Consultation Responses

Brixham Town Council: Recommend approval subject to:

1. Agreement of the environmental policy
2. Proper management procedures being in place

Highways Engineer: The proposed swept path analysis drawings for the car park are acceptable.

Strategic Transport: A condition stating that no more than 4 to 5 deliveries (8 to 10 trips) per day, without prior written approval, should be included with any permission and the public foot path (South West Coast Path) should remain unaffected post construction. A Construction Management Plan should be required via condition.

Community Safety (Environmental Health): An objection was originally received from the Senior Environmental Health Officer to the proposed development on the grounds that it could lead to a significant adverse impact on the adjacent residential accommodation as the originally submitted Design & Access Statement detailed the jetty would be in operation 24 hours a day. However, following the submission of a revised Design & Access Statement which details that the planned in-service operation of the jetty would be 07:00 - 19:00, the original objection has been withdrawn subject to conditions regarding hours of operation, lighting, waste, noise, and construction.

Community Safety (Contaminated Land): Having considered the comments from the Environment Agency and from the information the Council holds, the Senior Environmental Protection Officer believes that part of Oxen Cove is made ground/landfill. Therefore, the Senior Environmental Protection Officer has recommended that a contaminated land condition be attached to the permission.

Natural England: No objection subject to a condition which states that notwithstanding the approved works, the planning permission shall not be implemented until a license from the Marine Management Organisation has been granted for works below the mean high water mark. The completed Habitats Regulation Assessment (HRA) has concluded that further assessment is not required in relation to the impact of the proposal on the Lyme Bay and Torbay SAC and South Hams SAC. However, an assessment of the proposed project on the features of the MCZ is also required.

Environment Agency: No ground water quality objections to the proposed development.

Marine Management Organisation (MMO): Any works within the marine area require a licence from the MMO.

Drainage Engineer: No objections:

1. This development is located in Flood Zone 3 and the developer has submitted a site specific flood risk assessment for the proposed works.
2. As the development is classified as water compatible, a development of this nature is appropriate in Flood Zone 3.
3. The works involve only the construction of a new jetty from Oxen Cove car park into Brixham Outer Harbour.
4. Surface water run-off from the new jetty will be discharged directly to coastal waters.
5. There is no increased risk of flooding as a result of the proposed works.

South West Water: No objection provided that no structures are constructed within 3 metres of the public foul rising main sewer located within the car park.

Senior Historic Environment Officer: No conservation issues. Although the proposal sits securely in Brixham Town conservation area, it is at the level of the foreshore, below cliff faces that were formerly quarried, and by some distance well below the terraces of Sea View off Black Ball Lane and those on North Furzeham Road. Further, its point of attachment is with land reclaimed in the later twentieth century. The World War II Scheduled Monument of Battery Gardens lies 250m to the northwest and will not be affected.

South West Coast Path: The Access Design Statement makes reference to temporary diversion of a Public Right of Way (PRoW) but does not provide any detail on how this will be achieved. This PRoW forms part of the South West Coast Path National Trail. In addition to being well used, this access is of high strategic significance.

Should the LPA be minded to approve this application, I recommend that there should be a pre-commencement condition requiring that a Construction Management Plan is submitted by the developer with works not commencing until such a plan has been approved by the Highway Authority. This plan should detail how the developer will manage public access, including provisions for temporary diversion of the South West Coast Path National Trail.

Highway Authority consent will be required before the PRoW can be temporarily diverted.

Public Rights of Way Officer: Does not envisage much disruption to users of the coast path if they are only going around the compound and then the path will return following completion.

Summary Of Representations

Twelve letters of objection have been received which raised the following issues:

- No public meeting has been held
- Impact on residential amenity in terms of noise, fumes, smells, artificial lighting, insect infestations, increase in seagulls and rodents
- Loss of car parking
- Loss of access to the town centre via Oxen Cove
- Impact on the transport network and access
- Highway safety
- Loss of moorings
- Impact on local area
- Not in keeping with local area
- Negative impact on tourism
- Impact on revenue from car park
- Jeopardise future expansion of the Plymouth University Blue Science Hub
- Negative impact on business/trade
- Negative impact on economy/jobs
- Negative impact on fishing industry/Oxen Cove
- Viability

Relevant Planning History

P/1996/1280: Erection Of Kiosk/ Building In Connection With Use As A Pumping Station. Approved 12/12/1996.

P/1998/1101: Erection Of Control Panel Kiosk. Approved 30/10/1998.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of the development
2. Economic Development
3. Amenity
4. Transport impacts
5. Ecology
6. Visual impact
7. Other matters

1. Principle of the development

Policy SDB1 (Brixham Peninsula) of the Local Plan states that Brixham will accommodate appropriate but limited new growth. Policy SDB1 details that a range of developments will be sought to sustain a viable retail function, maintain

an appropriate range of community facilities, and meet local housing and employment needs. Policy SDB1 notes further that Brixham's role as a fishing port and resort, with nationally important and historic working and creative harbour, will be enhanced. Policy SDB2 (Brixham Town Centre, Harbour and Waterfront) of the Local Plan specifies that mixed use regeneration is proposed in the Brixham Town Centre, Harbour and waterfront areas.

Policy TO3 (Marine Economy) states that the Council will support investment in marine-related development where this produces economic, social or environmental benefits to the area, and where proposals are consistent with wider environmental, historic environment, landscape, biodiversity, ecology, amenity and coastal defence objectives.

In light of the foregoing, the proposal is considered to be acceptable in principle.

2. Economic Development

Policy SS5 (Employment Space) of the Local Plan identifies Oxen Cove & Freshwater Cove as a site for mixed-use harbour-side development with a focus on marine related employment uses. Policy SS4 (The Economy and Employment) of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it encourages expansion and diversification of the economy of the Bay.

The submitted Design & Access Statement states that the proposed jetty would provide additional port infrastructure, specifically in support of the shellfish industry. The applicant has advised that the proposal would provide support for an estimated 15 fishing businesses and 20 jobs would be created. Given that the application site is located within Oxen Cove and the proposal would provide additional port infrastructure to support the marine economy, it is considered that the proposal would have a positive economic effect and would be in accordance with the aforementioned policies.

3. Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Concerns have been raised by local residents with regard to a number of amenity issues including the potential for noise, fumes, smells, artificial lighting, insect infestations, along with an increase in seagulls and rodents.

The originally submitted Design and Access statement detailed that the jetty would be illuminated to suit 24 hour operation. A revised Design & Access statement has been received which specifies that the proposed in-service

operation hours of the jetty are 07.00 - 19.00 and only vessel navigational lighting would be on outside of these hours.

The Principal Environmental Health Officer has raised no objections to the proposal subject to the use of conditions to control lighting, waste management, noise, and construction. Given that the proposed hours of operation can be secured by condition and that the jetty would only be illuminated during these hours of operation, and given the location of the site within a working harbour, it is considered that the proposal would not result in any significantly harmful impacts in terms of noise and artificial lighting.

With regard to fumes, the applicant has advised that the expected vehicular movements on and off the jetty may be up to 3 lorries per day. Due to the relatively low number of trips per day by lorries to the proposed jetty and due to the existing coach park in the Oxen Cove car park, it is considered that the proposal is unlikely to result in any unacceptable effects upon neighbouring amenity in terms of fumes compared to the existing situation. In any case, the Principal Environmental Health Officer has recommended that a condition be imposed, should planning permission be granted, requiring that vehicle engines be switched off during loading and unloading operations in order to mitigate against exhaust fumes and noise. With regards to odour and rodents/insects/seagulls, the Principal Environmental Health Officer has recommended that a waste management condition be imposed to prevent public health and nuisance issues.

Subject to the use of those conditions recommended, it is considered that the proposal would not result in unacceptable harm to local or residential amenity, and as such, would be in accordance with Policy DE3 of the Local Plan.

4. Transport impacts

Policy TA2 of the Local Plan requires that development proposals make provision for adequate accessibility and safety. Policy TA3 sets out the adopted parking requirements.

The Design and Access statement proposes that ten car parking spaces would be lost across Oxen Cove and Freshwater car parks in order to accommodate the proposed jetty and manoeuvring route for the associated HGVs. Additional space has been identified within the south east corner of Oxen Cove car park to provide replacement car parking spaces to mitigate for the loss of spaces and these details can be secured by condition. In addition, whilst the Oxen Cove and Freshwater car parks are known to be highly utilised outside of the winter months, the multi-storey Brixham Marina car park on the opposite side of Brixham harbour in Berry Head Road offers 450 parking spaces and is under-utilised.

With regard to the impact of the proposal on highway safety, given that Overgang

Road and Blackball Lane area already used by coaches on a daily basis that park in the Oxen Cove car park and that it is expected that no more than 3 lorries would visit the jetty per day, it is considered that the proposal would not result in any significantly unacceptable highway impacts over and above the existing situation. With regards to highway safety, the Council's Highways Engineer has confirmed that the proposed swept path analysis drawings for the car park are acceptable. The Strategic Transportation Team has raised no objections to the proposal subject to the use of conditions to limit HGV movements and to secure a construction management plan.

Subject to the use of conditions, the proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan.

5. Ecology

The application site is approximately 400m south of the Lyme Bay and Torbay Special Area of Conservation (SAC); and 1.3km west of the South Hams SAC. The site is approximately 400m south of the Torbay Marine Conservation Zone (MCZ). A Habitats Regulations Assessment has been completed which concluded that the proposed works to construct and operate the proposal would not result in a likely significant effect on the conservation objectives of either the Lyme Bay and Torbay SAC or the South Hams SAC, both alone and in combination with other projects. As none of the conservation objectives of these sites would be adversely affected by the proposal, it is concluded that the integrity of the sites would be maintained and thus not adversely affected. Natural England have requested an assessment of the proposed project on the features of the MCZ is also required and these details will be reported at committee.

A Marine Management Organisation (MMO) licence is required for the works below the mean high water mark and Natural England have commented that they have no objections to the proposal subject to the receipt of an assessment of the proposed project on the features of the MCZ and subject to a condition being included with any permission which states that notwithstanding the approved works, the planning permission shall not be implemented until a license from the MMO has been granted for works below the mean high water mark. An informative, which explains the applicant's obligations, is considered to be more appropriate and can attached to any planning permission that might be issued.

It is considered that the proposal would not result in unacceptable ecological harm, subject to Natural England's comments regarding the impact of the proposed development on the features of the MCZ, and is in accordance with Policies NC1of the Local Plan.

6. Visual impact

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public

space. Policy SS10 states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them.

The application site is located within the Brixham Town Conservation Area. Given that the jetty would be sited within an existing operational harbour, the proposal is deemed to be of an appropriate design. The proposed 1.8m high entrance gates to the jetty are required for security purposes to prevent unauthorised access to the jetty. The jetty would be situated at the level of the foreshore, below cliff faces that were formerly quarried, and by some distance well below the terraces of Sea View off Black Ball Lane and those on North Furzeham Road. Furthermore, its point of attachment is with land reclaimed in the later twentieth century. In addition, the World War II Scheduled Monument of Battery Gardens lies 250m to the northwest of the application site and will not be affected. The Council's Heritage Advisor has raised no objections to the proposal.

Given its siting, scale, and design it is considered that the proposal would not result in harm to any heritage assets, and would not result in any unacceptable harm to the character of the area, and is therefore in accordance with Policies DE1 and SS10 of the Local Plan.

7. Other matters

Contaminated land

Oxen Cove car park is reclaimed land and the Council's Senior Environmental Protection Officer has recommended that a contaminated land condition is included with any permission. Subject to the use of this condition, the proposal is considered to be in accordance with Policy ER3 of the Local Plan.

South West Coast Path

The proposed jetty would be constructed alongside the South West Coast Path. Given that the coast path would be re-routed around the construction compound in Oxen Cove car park during the construction of the jetty and the path would return following the completion of the jetty, it is deemed that the proposal would not adversely affect the coast path. Nevertheless, it is recommended that a pre-commencement condition be imposed, should planning permission be granted, requiring the approval of a construction method statement to ensure that any public rights of way affected during the construction process are properly managed.

Flood Risk

This application site is located within Flood Zone 3. As the development is classified as water compatible, a development of this nature is deemed appropriate in Flood Zone 3. Surface water run-off from the new jetty would be discharged directly to coastal waters and as such, there is no increased risk of flooding as a result of the proposed works. The proposal is considered to be in accordance with Policy ER1 of the Local Plan, and the guidance contained in the NPPF.

Neighbourhood Plan

The emerging Brixham Peninsula Neighbourhood Plan (BPNP) has recently completed its independent examination. The relevant policies of the BPNP include:

- Policy J4 (Local employment - increased employment and local amenity)
- Policy J7 (Oxen Cove and Freshwater Quarry)

Policy J4 states that development will not be allowed which generates unacceptable noise, air pollution, levels of traffic or where the residential amenity of the area will be adversely affected. Policy J7 identifies Oxen Cove as employment land, primarily marine related. In addition, the BPNP includes a Brixham Town Centre master plan which details that proposals for Brixham outer harbour include extending the existing commercial harbour and processing facilities and providing new opportunities for marine-based business and tourism-based facilities. Given that the Principal Environmental Health Officer has raised no objections to the proposal subject to conditions regarding lighting, waste, noise and construction, it is considered that the proposed development would comply with the relevant Neighbourhood Plan policies.

S106/CIL

Not applicable for this type of development.

Statement on 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

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA:

EIA screening

As the proposal is less than 1 hectare in area, the proposal falls below the size threshold set by the EIA Regulations. The proposal is not considered to constitute EIA development.

Conclusions

In conclusion, the proposal would provide additional port infrastructure to support the marine economy. Given the nature of the proposal, including its siting, scale, and design, it is considered that the use of planning conditions can prevent any unacceptable harm in relation to amenity, transport, ecology, and other impacts. The proposal is considered acceptable having regard to the Local Plan and all other material considerations.

Condition(s)/Reason(s)

01. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include measures for any necessary diversion of the public rights of way; prevention of dust-drift, light pollution, and construction traffic congestion; along with the storage of materials, plant, vehicles, and machinery. Any subsequent construction works shall be undertaken in strict accordance with the approved details.

Reason: In the interests of local amenity and in accordance Policy DE3 of the Torbay Local Plan.

02. The jetty hereby approved shall only be used between 07:00 - 19:00 Mondays to Fridays and not at all during weekends, bank, or public holidays.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

03. HGV movements associated with the jetty shall be restricted to three lorries per day. All vehicles used for the unloading and loading of goods shall be fitted with directional alarms to reduce the area over which these alarms are likely to cause disturbance. During loading and unloading operations, vehicle engines shall be switched off. No HGVs associated with the jetty hereby approved shall access Oxen Cover Car Park outside of the jetty's approved operating hours.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

04. 1. Site Characterisation

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to:

- human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land
- groundwaters and surface waters
- ecological systems
- archaeological sites and ancient monuments.

2. Submission of Remediation Scheme

Where contaminated is found which poses unacceptable risks, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to occupation or the development being brought into use

4. Reporting of Unexpected Contamination In the event that contamination is found at any time when carrying out the approved development, that

was not previously identified, it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and site investigations shall be carried out. Where required by the Local Planning Authority, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to occupation, or the development being brought into use, on the site affected.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

05. Vessels shall only be moored alongside the jetty for the duration of loading and unloading operations.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

06. Aside from navigation and low level security lighting required for health and safety reasons, all operational lighting shall be switched off between the hours of 19:00 and 07:00. All operational lighting shall be designed so it does not directly illuminate nearby residential areas.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

07. Prior to the first use of the jetty hereby approved, a waste management plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include measures for the storage and timely disposal of all waste associated with the loading and unloading of vessels, along with baiting measures to tackle vermin. The jetty shall thereafter be operated in strict accordance with the approved details.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

08. Prior to the first use of the jetty hereby approved, security gates, which shall be under the direct control of the harbour authority, shall be installed in accordance with the approved drawing (reference: 10-6-7-8-21), received on 24 July 2018.

Reason: In the interests of neighbouring amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012 - 2030.

09. No development shall take place until a car park plan, which includes details of the proposed replacement car parking spaces, has been submitted to and approved in writing by the Local Planning Authority. The approved replacement spaces shall be provided, and the displaced spaces shall be deleted, prior to the development hereby approved being brought into use.

Reason: To ensure adequate parking facilities are provided, in accordance with Policy TA3 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.
02. For the avoidance of doubt, a separate licence from the Marine Management Organisation will be required for any works below the mean high water mark.

Relevant Policies

DE1 - Design
DE3 - Development Amenity
SS5 - Employment space
SS4 - The economy and employment
SS5 – Employment Space
SDB1 - Brixham Peninsular
SDB2 – Brixham Town Centre, Harbour and Waterfront
TO3 - Marine Economy
ER1 – Flood Risk
ER3 - Contamination
SS10 – Conservation and Historic Environment
NC1 – Biodiversity and geodiversity
TA2 – Development Access
TA3 – Parking Requirements

Application Number

P/2018/0492

Site Address

Brampton Court Hotel
St Lukes Road South
Torquay
TQ2 5NZ

Case Officer

Gary Crawford

Ward

Tormohun

Description

Change of use from C1 (hotels) to Sui Generis (Student Residence) (retrospective) (proposal / description amended 24 May 2018)

Executive Summary/Key Outcomes

The application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). Both the host property and the neighbouring property, the Maycliffe Hotel, are currently in use as student accommodation by students from Education First International Academy (EF). A separate application (P/2018/0493) has been submitted by the same applicant seeking to regularise the use of the Maycliffe Hotel. As the Brampton Court Hotel and Maycliffe Hotel share kitchen, laundry and communal facilities, it is considered necessary that both applications should be considered at the same time.

Whilst the proposed use provides economic benefits to the local economy, a number of concerns have been raised, particularly with regards to the impact of the development on local amenity. It is recommended that subject to the submission of a robust management plan, a planning permission should be granted for a temporary two year period specifically to EF.

Recommendation

Conditional approval (conditions at end of report).

Reason for Referral to Development Management Committee

Due to the number of objections received, the application has been referred to the Development Management Committee for determination.

Statutory Determination Period

The determination date was 10th July 2018. The application has exceeded the determination date to allow the submission of additional information.

Site Details

The site is located on the corner of Cary Road, St Lukes Road South and St

Lukes Park, and comprises a large, much extended, Victorian villa which was formerly in use as a hotel and is situated in the Belgravia Conservation Area. The building is identified as a key building in the Belgravia Conservation Area Character Appraisal. The application site is located within a Community Investment Area.

The property is enclosed by a stone boundary wall and features a large area of hard standing to provide parking for 12 vehicles and a grassed amenity area adjacent to the boundary with St Lukes Road South. The site is identified as a potential development site for housing in the Torbay Local Plan 2012-2030.

The character of the surrounding area is of residential dwellinghouses and apartments, and guest houses. The neighbouring property, the Maycliffe Hotel, is also currently in use as student accommodation and a separate application (P/2018/0493) has been submitted seeking to regularise the use of this building. The nearest residential properties are Waldon Hall, Walliscote and Chase Court on the opposite side of St Lukes Park, approximately 7.5m away.

Detailed Proposals

The application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). Both the host property and the neighbouring property are currently in use as student accommodation by students from Education First International Academy (EF), which is based in Castle Road, Torquay. EF Academy is a registered independent boarding school regulated by the Department for Education, accredited by the ISA (Independent Schools Association), and inspected by the ISI (Independent Schools Inspectorate). The 2014 Ofsted report for EF International Academy states that “the academy provides exclusively for international students who wish to gain the International GCSE, A level and International Baccalaureate accreditation”.

The Brampton Court Hotel consists of 20 student bedrooms, communal facilities, kitchen dining room, house-parent accommodation and owners' accommodation. The applicants have stated that a maximum of around 40 international students arrive at the residence in September and stay until June. Between 20 June and 27 July a new intake of summer students from EF Language Travel stay at the residence. The Planning Statement also notes that students are accommodated in single rooms, or share a larger room with one or two other students.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Senior Environmental Health Officer:

From our files, no complaints have been received about either the Maycliffe Hotel or the Brampton Court Hotels in their current use.

Whilst I can understand resident's concerns about the potential noise created by a student residence, the proposed use is not intrinsically noisy. If run in a responsible fashion, I see no reason for anyone to be unreasonably affected by noise. If issues with noise from students were to arise, effective disciplinary procedures against offending students would no doubt be sufficient to resolve neighbour's concerns. Should the issues not be dealt with and the matter not be resolved in a timely fashion, the Council can utilise its powers in the Statutory Nuisance regime to resolve the situation.

However, in the light of local concerns, and in order to preserve residential amenity, I recommend a condition be placed on the consent requiring the development of a noise management plan and that the details of the plan are to be approved by the local planning authority. I would also recommend that a review mechanism be put in place so that should it be required the plan can be modified in consultation with the Council.

The noise management plan should include:-

- *A code of conduct for students whilst on site*
- *A proposed scheme of monitoring*
- *A scheme of sanctions should students fail to comply with the code.*
- *A reporting scheme so residents can express their concerns*
- *A review mechanism to address emerging concerns.*

Conservation Officer:

The Conservation Officer has requested improvements to the building in order to comply with relevant legislation and Policy TO2 (Change of use of tourism accommodation and facilities) of the Torbay Local Plan. It is requested that improvements to the scheme are made and as a minimum the following:

- *Traditional window design;*
- *sympathetic signage or removal of the signage; and*
- *An improved landscaping scheme.*

The Police Designing out Crime Officer:

1. It is noted in the planning statement how the premises and students are currently supervised and managed but there should be a separate and detailed management (and maintenance) plan drawn up and agreed upon, which should also include the external areas. Residents of multi occupancy premises generally only have an interest and regard for their own private space (i.e. their room), as such other areas can become problematic due to a lack of supervision, ownership and responsibility. This can easily escalate creating conflict and unacceptable behaviour and noise and nuisance issues for nearby residents, therefore the premises must be robustly managed and maintained on a regular basis. This will also help in identifying any problem areas which can then be dealt with at an early stage.

2. The main shared entrance door to the building should be of a design that has been tested and certificated to an acceptable security standard e.g. PAS 24 2016. The door should have access control and a visitor door entry system to prevent unauthorised access. The door should be self-closing and locking to prevent from being left open.

3. Other external shared access doors must also be self-closing and locking with a thumb turn lock on the inside. This will ensure the door is secure at all times and egress can be gained in the event of an emergency without the need for a key

4. All ground floor and easily accessible windows should also be to a design that has been tested to an acceptable security standard such as PAS 24 2016. Ground floor and easily accessible windows should have restrictors fitted.

5. Each student's private room must have a 'fit for purpose' secure door and locking system - ideally it should be tested and certificated to PAS 24 2016 to provide a safe and secure sanctuary for the student.

6. Ideally there should be a house parent bedroom on each floor rather than all be sited together in one area of the building.

7. A monitored CCTV system should be considered for shared areas and be capable of capturing clear evidential images

8. Bicycle storage should be secure and it should not be possible to see bikes from the outside of the store. The store must be in view of active areas and be well lit to assist students during hours of darkness. There should be a thumb turn lock on the inner face to prevent users from being accidentally locked in.

9. *The curfew for students is noted but should be written into the management plan*

10. *There should be clear rule setting throughout the building so that students are in no doubt as to what is expected of them in terms of behaviour for both inside and outside of the premises.*

Strategic Transport:

No comments received.

Summary Of Representations

24 letters of objection and 34 letters of support have been received. Issues raised by the objectors:

- Impact on the local area and Conservation Area
- Impact on property values
- Noise and disturbance
- Littering
- Anti-social behaviour
- Standard of accommodation for current occupiers
- Lack of recreation facilities for students
- Loss of community facility for local residents
- Future use of buildings
- Loss of a potential future housing site
- Highway safety
- Increase in traffic
- Impact on local businesses
- Impact on parking

The comments in support of the application included:

- Re-use of disused hotels
- Economic benefits to local area
- Provides jobs
- Social and cultural enrichment

Relevant Planning History

P/1080/2706- Extension to form 2bedrooms and Bathrooms- Approved 14/11/1980.

P/1983/0749: Convert Car Port To Garage. Approved 6/5/1983.

P/1986/2258: Extension To Form Two Bedrooms. Approved 21/11/1986.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of the development

2. Amenity
3. Visual impact
4. Transport Impacts

1. Principle of the development

The permitted use of the building is a hotel.

The site is located outside a Core Tourism Investment Area. Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

1. The holiday character of the area and range of facilities and accommodation are not undermined; and

2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; or it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TO2 also requires that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas.

Whilst Policy TO2 relates to a change of use away from tourism, it does not relate to a change of use away from C1 uses. 'Tourism attractions and facilities' are defined in the glossary of the Torbay Local Plan as being:

'A range of accommodation, attractions, amenities etc. that contribute to the role and holiday and leisure character of the area. They include (but are not limited to) holiday accommodation, cafes, restaurants (and other food and drink uses), local shops, museums, zoos, historical and cultural uses, leisure uses, and other recreational attractions for sport or maritime activities.'

This is a very wide definition and there is no definition of 'holiday accommodation'. Owing to the wide definition of 'tourism', it is considered that this can include 'educational tourism', particularly given that EF and the accommodation under consideration serves foreign students. The applicant's agent has argued that the change of use of the premises would not take the business outside of a tourism use for the following reasons:

- EF provide language training with cultural exchange, academic achievement and educational travel.
- EF provide a range of short-term high school immersion programmes to give students a taste of life abroad and to learn a foreign language.
- Of the current 300 students on roll aged from 14 to 19 years, the students are from 23 countries and none are from the UK.
- EF students partake in an extensive range of extra-curricular activities at the end of the school day and at weekends. These activities range from sporting activities to cultural visits to historic towns, cities, buildings, the coastline and countryside.

The application states that the proposed change of use of the premises includes a large element of 'tourism' or 'cultural activities'. Officers consider that this is a reasonable argument and deem that in this instance, given that the proposed use of the premises is an educational tourism use, Policy TO2 does not apply.

Given that the proposal provides an educational tourism use, it is considered to be acceptable in principle.

2. Economic Benefits

Policy SS4 (The economy and employment) of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses and education facilities, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) of the Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay, and particularly within Community Investment Areas, will be supported in principle.

The proposed student accommodation is required to serve EF Academy, a Torquay-based English language school, with an enrolment of 300 students during the academic year and with potential to grow further in future. The academy, and associated accommodation, provide employment and attract foreign students into Torbay, all of which generate benefits for the local economy. In this respect, it is considered that the proposal corresponds with the aspirations of Policies SS4 and SS11 of the Local Plan.

3. Amenity

Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses. Policy SS11 states that proposals should

help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, anti-social behaviour, disorder and community conflict.

A number of objections have been raised with regards to noise and disturbance, littering and anti-social behaviour, which it is alleged that the proposed use gives rise to.

The Council's Senior Environmental Health Officer has stated that his department have no records of having received any complaints about either the Maycliffe Hotel or the Brampton Court Hotels in their current use. The Senior Environmental Health Officer does not consider the proposed use of the buildings to be intrinsically noisy and he has commented that if the premises are run in a responsible fashion, the use should not give rise to unacceptable nuisance. He has commented further that if issues with noise from students were to arise and they were not dealt with by the owners of the buildings, the Council could utilise its powers under the Statutory Nuisance regime to resolve the situation.

However, given the objections raised with regards to noise and disturbance, and in order to preserve residential amenity, the Senior Environmental Health Officer has recommended that a condition be imposed on any permission requiring the development of a noise management plan and that the details of this plan be approved by the local planning authority. It is also recommended that a review mechanism be put in place so that should it be required, the management plan can be modified in consultation with the Council.

The applicant, in conjunction with EF, has supplied a draft management plan, which the accommodation and outdoor spaces will be managed in accordance with. The management plan states that there is a curfew for all students of 21:00 Sunday to Thursday and 23:00 Fridays and Saturdays, and that external lighting is switched off at the curfew hour. The management plan includes measures for dealing with litter and states that no football/basketball games may be played in the grounds or in surrounding streets and the students are directed to Torre Abbey Meadow to play ball games. Whilst the students staying at both hotels have access to a number of internal communal areas, it is noted that other than a small patio area outside the Maycliffe Hotel, the only outdoor amenity area that serves both buildings is a grassed area outside the Brampton Court Hotel, adjacent to St Lukes Road South. However, given that both Torre Abbey Meadows and Torre Abbey Sands are approximately a 10 minute walk away from the premises, it is not considered unreasonable to expect students to use these facilities for outdoor activities. The proposed accommodation is managed by on-site guardians who reside at the premises.

The concerns with regards to noise, disturbance and anti-social behaviour, are acknowledged, however, it is considered that these issues can be properly controlled through adherence to a robust management plan, and a condition can be employed to secure this. Furthermore, through the granting of a temporary

permission, specific to EF Academy, that adherence to the approved management plan can be monitored by the Council and taken into consideration should a request to continue the activity, beyond two years, comes forward. Subject to these conditions, it is considered that the proposal would not result in an unacceptable level of harm to the amenities of neighbours, and that the proposal would be in accordance with Policies DE3 and SS11 of the Local Plan.

4. Visual impact

Policy SS10 (Conservation and the historic environment) of the Local Plan states that proposals will be supported which preserve, and where appropriate enhance, the significance and setting of the district's heritage assets. Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

Although the Conservation Officer commented that external improvements to the building were required in line with Policy TO2, given that the proposed use would be for education tourism, it is considered that requirements of Policy TO2 do not apply in this instance.

Given that no external changes are proposed, it is deemed that the proposal would not result in harm to heritage assets, or unacceptable harm to the character or visual amenities of the locality and, as such, would not conflict with Policies DE1 or SS10.

5. Transport impacts

The students staying in the building are aged 14-19 and the applicant's agent has stated that none of them own a car. As such, it is considered likely that the proposed use of the building as a student residence would result in less vehicular trips than the existing use of the building as a hotel. As such, it is deemed that the proposal would not result in any considerably worse transport impacts than the existing use of the building as a hotel.

6. Other Considerations

The Police Designing-Out Crime Officer has made a number of comments that are either not considered to be planning matters or make recommendations that are considered unnecessary in this case. The desire to ensure compliance with an appropriate management plan and achieve good order and behaviour at the site is addressed through the proposed use of conditions as discussed earlier in this report.

Neighbourhood Plan

The Torquay Neighbourhood Plan has recently completed its independent examination stage and the relevant policy for this application is Policy T2 (Change of Use constraints within an established tourism area or CTIA (Core Tourism Investment Area)). In the Examiner's Report of the Torquay Neighbourhood Plan, the Examiner has recommended that the wording of this

policy is changed to change of use from tourism accommodation within a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported. Given that the application site is not located within a CTIA, it is considered that the proposal would not be in conflict with Policy T2.

Statement on 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

S106/CIL -

S106:

Not applicable.

CIL:

Not applicable.

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.

Conclusions

Subject to the imposition of conditions, it is deemed that the proposal accords with the provisions of the Local Plan and all other material considerations, and is recommended for approval.

Informative(s)

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.

Condition(s)/Reason(s)

01. The use hereby approved shall cease within two years of the date of this planning permission.

Reason: To allow for sufficient time to monitor effects of the development and the ability of the approved Management Plan to ensure that the change does not unduly impact upon the amenity of neighbouring and surrounding uses in accordance with Policies DE3 of the Torbay Local Plan 2012-2030.

02. (a) The use hereby permitted shall cease unless, within two weeks of the date of this planning permission, a management plan has been submitted to the Local Planning Authority for its approval in writing. The management plan shall include the following:

- A code of conduct for students whilst on site
- Measures for preventing anti-social behaviour and loitering in the neighbourhood of the site
- A proposed scheme of monitoring
- A scheme of sanctions should students fail to comply with the code
- A reporting scheme so neighbouring residents can express their concerns
- A liaison and review mechanism to address emerging concerns

The use shall thereafter be undertaken in full accordance with the approved details.

(b) If no management plan in accordance with condition 02.(a) above is approved within 3 months of the date of this permission the use hereby permitted shall cease until such time as a management plan approved by the Local Planning authority is implemented.

Reason: To ensure that the use of the building is properly managed and monitored in the interests of preventing harm to the amenity of the area, and in accordance with Policy DE3 of the Torbay Local Plan 2012 and 2030.

03. Only students of the Education First International Academy, Torquay shall reside at the student accommodation hereby approved.

Reason: To maintain control of potentially inappropriate development as the sui generis use of the premises as described in the application is considered appropriate in this location in that it would comply with Policies DE3 of the Torbay Local Plan (1995-2011). Any subsequent sui generis use or changes in operation by subsequent owners would have to be considered on their individual merit.

Relevant Policies

- DE1 - Design
- DE3 - Development Amenity
- SS10 - Conservation and Historic Environment
- SS11 - Sustainable Communities Strategy
- SS4 - The economy and employment
- TO2 - Change of use of tourism accommodation
- T2 - Transport hierarchy

Application Number

P/2018/0493

Site Address

Maycliffe Hotel
St Lukes Road North
Torquay
TQ2 5PD

Case Officer

Gary Crawford

Ward

Tormohun

Description

Change of use from C1 (hotels) to Sui Generis (Student Residence) (retrospective) (proposal / description amended 24 May 2018)

Executive Summary/Key Outcomes

This planning application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). The property is currently in use as student accommodation by students from Education First International Academy (EF). A separate application (P/2018/0492) has been submitted by the same applicant seeking to regularise the use of the Brampton Court Hotel. As the Brampton Court Hotel and Maycliffe Hotel share kitchen, laundry and communal facilities, it is considered necessary that both applications should be considered at the same time.

Whilst the proposed use provides economic benefits to the local economy, a number of concerns have been raised, particularly with regards to the impact of the development on local amenity. It is recommended that subject to the submission of a robust management plan, a planning permission should be granted for a temporary two year period specifically to EF.

Recommendation

Conditional approval (conditions at end of report).

Reason for Referral to Development Management Committee

Due to the number of objections received, the application has been referred to the Development Management Committee for determination.

Statutory Determination Period

The determination date was 10th July 2018. The application has exceeded the determination date to allow the submission of additional information.

Site Details

The site is located on the corner of Cary Road, St Lukes Road North and St Lukes Park, and comprises a large, much extended, Victorian villa which was formerly in use as a hotel and is situated in the Belgravia Conservation Area. The property features a large open area of hardstanding on the Cary Road frontage to provide parking for 9 vehicles and a small patio area. The application site is located within a Community Investment Area.

The character of the surrounding area is of residential houses and apartments, and guest houses. The neighbouring property, the Brampton Court Hotel, is also currently in use as student accommodation and a separate application (P/2018/0492) has been submitted seeking to regularise the use of this building. The two hotels share communal facilities, such as a kitchen and laundry area. The nearest residential properties are Waldon Hall, Walliscote and Chase Court on the opposite side of St Lukes Park, approximately 7.5m away.

Detailed Proposals

The application seeks retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use). Both the host property and the neighbouring property are currently in use as student accommodation by students from Education First International Academy (EF), which is based in Castle Road, Torquay. EF Academy is a registered independent boarding school regulated by the Department for Education, accredited by the ISA (Independent Schools Association) and inspected by the ISI (Independent Schools Inspectorate). The 2014 Ofsted report for EF International Academy states that “the academy provides exclusively for international students who wish to gain the International GCSE, A level and International Baccalaureate accreditation”.

The Maycliffe Hotel consists of 26 student bedrooms, communal facilities, kitchen dining room, house parent accommodation and owners' accommodation. The applicants have stated that a maximum of 46 international students arrive at the residence in September and stay until June. The Planning Statement specifies that between 20 June and 27 July a new intake of summer students from EF Language Travel stay at the residence. The Planning Statement also notes that students are accommodated in single rooms, or share a larger room with one or two other students.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

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- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Torquay Neighbourhood Plan
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- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Senior Environmental Health Officer:

From our files, no complaints have been received about either the Maycliffe Hotel or the Brampton Court Hotels in their current use.

Whilst I can understand resident's concerns about the potential noise created by a student residence, the proposed use is not intrinsically noisy. If run in a responsible fashion, I see no reason for anyone to be unreasonably affected by noise. If issues with noise from students were to arise, effective disciplinary procedures against offending students would no doubt be sufficient to resolve neighbour's concerns. Should the issues not be dealt with and the matter not be resolved in a timely fashion, the Council can utilise its powers in the Statutory Nuisance regime to resolve the situation.

However, in the light of local concerns, and in order to preserve residential amenity, I recommend a condition be placed on the consent requiring the development of a noise management plan and that the details of the plan are to be approved by the local planning authority. I would also recommend that a review mechanism be put in place so that should it be required the plan can be modified in consultation with the Council.

The noise management plan should include:-

- *A code of conduct for students whilst on site*
- *A proposed scheme of monitoring*
- *A scheme of sanctions should students fail to comply with the code.*
- *A reporting scheme so residents can express their concerns*
- *A review mechanism to address emerging concerns.*

Conservation Officer:

The Conservation Officer has requested improvements to the building in order to comply with relevant legislation and Policy TO2 (Change of use of tourism

accommodation and facilities) of the Torbay Local Plan. It is requested that improvements to the scheme are made and as a minimum the following:

- Traditional window design;
- Sympathetic signage or removal of the signage; and
- An improved landscaping scheme.

The Police Designing out Crime Officer:

1. It is noted in the planning statement how the premises and students are currently supervised and managed but there should be a separate and detailed management (and maintenance) plan drawn up and agreed upon, which should also include the external areas. Residents of multi occupancy premises generally only have an interest and regard for their own private space (i.e. their room), as such other areas can become problematic due to a lack of supervision, ownership and responsibility. This can easily escalate creating conflict and unacceptable behaviour and noise and nuisance issues for nearby residents, therefore the premises must be robustly managed and maintained on a regular basis. This will also help in identifying any problem areas which can then be dealt with at an early stage.

2. The main shared entrance door to the building should be of a design that has been tested and certificated to an acceptable security standard e.g. PAS 24 2016. The door should have access control and a visitor door entry system to prevent unauthorised access. The door should be self-closing and locking to prevent from being left open.

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5. Each student's private room must have a 'fit for purpose' secure door and locking system - ideally it should be tested and certificated to PAS 24 2016 to provide a safe and secure sanctuary for the student.

6. Ideally there should be a house parent bedroom on each floor rather than all be sited together in one area of the building.

7. A monitored CCTV system should be considered for shared areas and be capable of capturing clear evidential images

8. Bicycle storage should be secure and it should not be possible to see bikes from the outside of the store. The store must be in view of active areas and be well lit to assist students during hours of darkness. There should be a thumb turn lock on the inner face to prevent users from being accidentally locked in.

9. The curfew for students is noted but should be written into the management plan

10. There should be clear rule setting throughout the building so that students are in no doubt as to what is expected of them in terms of behaviour for both inside and outside of the premises.

Strategic Transport:

No comments received.

Summary Of Representations

24 letters of objection and 36 letters of support have been received. Issues raised by the objectors:

- Impact on the local area and Conservation Area
- Impact on property values
- Noise and disturbance
- Littering
- Anti-social behaviour
- Standard of accommodation for current occupiers
- Lack of recreation facilities for students
- Loss of community facility for local residents
- Future use of buildings
- Loss of a potential future housing site
- Highway safety
- Increase in traffic
- Impact on local businesses
- Impact on parking

The comments in support of the application included:

- Re-use of disused hotels
- Economic benefits to local area
- Provides jobs
- Social and cultural enrichment

Relevant Planning History

P/1985/1248: Fire Escape And Escape Doors. Approved 24/5/1985.

P/1987/1445: Alterations And Formation Of Bathroom And W.C. Approved 25/9/1987.

P/1989/1287: Extensions And Alterations To Form Additional Bedrooms And Other Accommodation. Approved 4/10/1989.

P/1990/1289: Reduction In Height Of Existing Stone Wall And Rendered Piers. Approved 29/8/1990.

P/1990/1290: Alterations To Boundary Wall And Entrance Area. Approved 16/10/1990.

P/1990/1369: Illuminated Sign Mounted On Boundary Wall. Refused 15/10/1990.

P/2007/0965: Temporary Siting Of Storage Container (In Car Park). Refused

30/11/2007.

P/2015/0715: Change of use of hotel to form 10 flats including communal space and 9 car parking spaces. Demolition of more recent additions to villa and remodelling of some existing extensions, new windows and balconies. Modification of roof to include slated pitched elements. Approved 21/10/2015 but not implemented.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Principle of the development
2. Amenity
3. Visual impact
4. Transport Impacts

1. Principle of the development

The permitted use of the building is a hotel.

The site is located outside a Core Tourism Investment Area . Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

1. *The holiday character of the area and range of facilities and accommodation are not undermined; and*
2. *One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; or it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.*

Policy TO2 also requires that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas.

Whilst Policy TO2 relates to a change of use away from tourism, it does not relate to a change of use away from C1 uses. 'Tourism attractions and facilities' are defined in the glossary of the Torbay Local Plan as being:

'A range of accommodation, attractions, amenities etc. that contribute to the role

and holiday and leisure character of the area. They include (but are not limited to) holiday accommodation, cafes, restaurants (and other food and drink uses), local shops, museums, zoos, historical and cultural uses, leisure uses, and other recreational attractions for sport or maritime activities.'

This is a very wide definition and there is no definition of 'holiday accommodation'. Owing to the wide definition of 'tourism', it is considered that this can include 'educational tourism', particularly given that EF and the accommodation under consideration serves foreign students. The applicant's agent has argued that the change of use of the premises would not take the business outside of a tourism use for the following reasons:

- EF provide language training with cultural exchange, academic achievement and educational travel.
- EF provide a range of short-term high school immersion programmes to give students a taste of life abroad and to learn a foreign language.
- Of the current 300 students on roll aged from 14 to 19 years, the students are from 23 countries and none are from the UK.
- EF students partake in an extensive range of extra-curricular activities at the end of the school day and at weekends. These activities range from sporting activities to cultural visits to historic towns, cities, buildings, the coastline and countryside.

The application states that the proposed change of use of the premises includes a large element of 'tourism' or 'cultural activities'. Officers consider that this is a reasonable argument and deem that in this instance, given that the proposed use of the premises is an educational tourism use, Policy TO2 does not apply.

Given that the proposal provides an educational tourism use, it is considered to be acceptable in principle.

2. Economic Benefits

Policy SS4 (The economy and employment) of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses and education facilities, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) of the Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay, and particularly within Community Investment Areas, will be supported in principle.

The proposed student accommodation is required to serve EF Academy, a Torquay-based English language school, with an enrolment of 300 students

during the academic year and with potential to grow further in future. The academy, and associated accommodation, provide employment and attract foreign students into Torbay, all of which generate benefits for the local economy. In this respect, it is considered that the proposal corresponds with the aspirations of Policies SS4 and SS11 of the Local Plan.

3. Amenity

Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses. Policy SS11 states that proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, anti-social behaviour, disorder and community conflict.

A number of objections have been raised with regards to noise and disturbance, littering and anti-social behaviour, which it is alleged the proposed use gives rise to.

The Council's Senior Environmental Health Officer has stated that his department have no records of having received any complaints about either the Maycliffe Hotel or the Brampton Court Hotels in their current use. The Senior Environmental Health Officer does not consider the proposed use of the buildings to be intrinsically noisy and he has commented that if the premises are run in a responsible fashion, the use should not give rise to unacceptable nuisance. He has commented further that if issues with noise from students were to arise and they were not dealt with by the owners of the buildings, the Council could utilise its powers under the Statutory Nuisance regime to resolve the situation.

However, given the objections raised with regards to noise and disturbance, and in order to preserve residential amenity, the Senior Environmental Health Officer has recommended that a condition be imposed on any permission requiring the development of a noise management plan and that the details of this plan be approved by the local planning authority. It is also recommended that a review mechanism be put in place so that should it be required, the management plan can be modified in consultation with the Council.

The applicant, in conjunction with EF, has supplied a draft management plan, which the accommodation and outdoor spaces will be managed in accordance with. The management plan states that there is a curfew for all students of 21:00 Sunday to Thursday and 23:00 Fridays and Saturdays, and that external lighting is switched off at the curfew hour. The management plan includes measures for dealing with litter and states that no football/basketball games may be played in the grounds or in surrounding streets and the students are directed to Torre Abbey Meadow to play ball games. Whilst the students staying at both hotels have access to a number of internal communal areas, it is noted that other than a small patio area outside the Maycliffe Hotel, the only outdoor amenity area that

serves both buildings is a grassed area outside the Brampton Court Hotel, adjacent to St Lukes Road South. However, given that both Torre Abbey Meadows and Torre Abbey Sands are approximately a 10 minute walk away from the premises, it is not considered unreasonable to expect students to use these facilities for outdoor activities. The proposed accommodation is managed by on-site guardians who reside at the premises.

The concerns with regards to noise, disturbance and anti-social behaviour, are acknowledged, however, it is considered that these issues can be properly controlled through adherence to a robust management plan, which can be secured through the use of a condition. Furthermore, through the granting of a temporary permission, specific to EF Academy, that adherence to the approved management plan can be monitored by the Council and taken into consideration should a request to continue the activity, beyond two years, comes forward. Subject to these conditions, it is considered that the proposal would not result in an unacceptable level of harm to the amenities of neighbours, and that the proposal would be in accordance with Policies DE3 and SS11 of the Local Plan.

4. Visual impact

Policy SS10 (Conservation and the historic environment) of the Local Plan states that proposals will be supported which preserve, and where appropriate enhance, the significance and setting of the district's heritage assets. Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

Although the Conservation Officer commented that external improvements to the building were required in line with Policy TO2, given that the proposed use would be for education tourism, it is considered that requirements of Policy TO2 do not apply in this instance.

Given that no external changes are proposed, it is deemed that the proposal would not result in harm to heritage assets, or unacceptable harm to the character or visual amenities of the locality and as such, would not conflict with Policies DE1 or SS10.

5. Transport impacts

The students staying in the building are aged 14-19 and the applicant's agent has stated that none of them own a car. As such, it is considered likely that the proposed use of the building as a student residence would result in less vehicular trips than the existing use of the building as a hotel. As such, it is deemed that the proposal would not result in any considerably worse transport impacts than the existing use of the building as a hotel.

6. Other Considerations

The Police Designing-Out Crime Officer has made a number of comments that are either not considered to be planning matters or make recommendations that

are considered unnecessary in this case. The desire to ensure compliance with an appropriate management plan and achieve good order and behaviour at the site is addressed through the proposed use of conditions as discussed earlier in this report.

Neighbourhood Plan

The Torquay Neighbourhood Plan has recently completed its independent examination stage and the relevant policy for this application is Policy T2 (Change of Use constraints within an established tourism area or CTIA (Core Tourism Investment Area)). In the Examiner's Report of the Torquay Neighbourhood Plan, the Examiner has recommended that the wording of this policy is changed to change of use from tourism accommodation within a CTIA to HMO or student halls of residence or hostel type accommodation will not be supported. Given that the application site is not located within a CTIA, it is considered that the proposal would not be in conflict with Policy T2.

Statement on 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

S106/CIL -

S106:

Not applicable.

CIL:

Not applicable.

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.

Conclusions

Subject to the use of conditions, the proposal is considered to be acceptable having regard to the Local Plan and all other material considerations.

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.

Condition(s)/Reason(s)

01. The use hereby approved shall cease within two years of the date of this planning permission.

Reason: To allow for sufficient time to monitor effects of the development and the ability of the approved Management Plan to ensure that the change does not unduly impact upon the amenity of neighbouring and surrounding uses in accordance with Policies DE3 of the Torbay Local Plan 2012-2030.

02. (a) The use hereby permitted shall cease unless, within two weeks of the date of this planning permission, a management plan has been submitted to the Local Planning Authority for its approval in writing. The management plan shall include the following:

- A code of conduct for students whilst on site
- Measures for preventing anti-social behaviour and loitering in the neighbourhood of the site
- A proposed scheme of monitoring
- A scheme of sanctions should students fail to comply with the code
- A reporting scheme so neighbouring residents can express their concerns
- A liaison and review mechanism to address emerging concerns

The use shall thereafter be undertaken in full accordance with the approved details.

- (b) If no management plan in accordance with condition 02.(a) above is approved within 3 months of the date of this permission the use hereby

permitted shall cease until such time as a management plan approved by the Local Planning authority is implemented.

Reason: To ensure that the use of the building is properly managed and monitored in the interests of preventing harm to the amenity of the area, and in accordance with Policy DE3 of the Torbay Local Plan 2012 and 2030.

03. Only students of the Education First International Academy, Torquay shall reside at the student accommodation hereby approved.

Reason: To maintain control of potentially inappropriate development as the sui generis use of the premises as described in the application is considered appropriate in this location in that it would comply with Policies DE3 of the Torbay Local Plan (1995-2011). Any subsequent sui generis use or changes in operation by subsequent owners would have to be considered on their individual merit.

Relevant Policies

TO2 - Change of use of tourism accommodation

SS4 - The economy and employment

SS11 - Sustainable Communities Strategy

DE1 - Design

DE3 - Development Amenity

SS10 - Conservation and Historic Environment

Application Number

P/2018/0531

Site Address

Ocean Court
Vane Hill Road
Torquay
TQ1 2BZ

Case Officer

Miss Emily Elliott

Ward

Wellswood

Description

Replacement of pitched roof to provide living space and roof terrace.

Executive Summary/Key Outcomes

This planning application proposes the replacement of the existing pitched roof to the northern arm of the dwelling with an extension to provide living space and a roof terrace.

The application has been referred to Development Management committee due to the applicant being a Ward Member.

The proposal is considered to be in accordance with Policies DE1 Design, DE3 Development Amenity, DE5 Domestic Extensions, SS10 Conservation and the Historic Environment, NC1 Biodiversity and Geodiversity, C4 Trees, Hedgerows and Natural Landscape Features and ER1 Flood Risk of the adopted Torbay Local Plan 2012-2030 and is therefore recommended for approval.

Recommendation

Approval.

Reason for Referral to Development Management Committee

As the proposed development is on land owned by a Ward Member, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

The eight week target date for determination of this application was 18th July 2018. An extension of time to 17th August 2018 has been agreed.

Site Details

The application site comprises a dwelling and its curtilage, located at Ocean Court, Vane Hill Road, Torquay. The building is a modern, uniquely designed detached mid-20th century dwelling located on a prominent, elevated position along the Vane Hill Road frontage overlooking Torquay Harbour. The application site is built

upon a number of levels due to the nature and topography of the land. The site is located behind the dominant three high-rise blocks at Shirley Towers.

The site is located within the designated Torquay Harbour Conservation Area. Vane Tower (Grade 2 Listed Building) is in the vicinity of the site and there are protected trees on site and in close proximity to the site.

Detailed Proposals

The application proposes the replacement of the existing pitched roof of the northern flank of the existing dwelling with a mono-pitched roof extension which would mirror the existing structure on the southern flank of the dwelling. The proposed mono-pitched roof extension will provide a kitchen dining area that will replace an existing kitchen. The existing kitchen will become a study and the proposed kitchen dining area will include bi-fold doors which will lead onto the roof terrace area.

The proposed mono-pitched extension will be finished in walls of rendered timber and will have roof slates to match the host dwelling. The proposed extension will include a window to both the north-west and south-east elevations, as well as bi-fold doors to the north-east elevation. The proposed extension will measure 3.4 metres by 6.2 metres and have a maximum height of approximately 4.5 metres from the existing floor level, but will only measure 2.5 metres above the existing pitched roof it will replace. The proposal will not be at a height above the existing mono-pitched roof on the southern flank.

The proposed roof terrace will measure 4.4 metres by 5.2 metres. The balustrading will be set back from the parapet to create a perimeter planting area. The proposed planting area will soften the design. The proposed extension and a roof terrace will not increase the footprint of the dwelling.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)

- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

Summary Of Consultation Responses

Conservation and Design Officer - Satisfied that the proposed design overcomes the concerns raised in the previous appeal decision (APP/X1165/D/15/3134648) and that the proposed development will not have an adverse impact upon the character and appearance of the Torquay Harbour Conservation Area and the setting of Vane Tower which is a nearby Listed Building. The proposal satisfies the statutory tests set out in Sections 66 and 72 of the Planning (Listed Building & Conservation Areas) Act 1990 and the heritage tests set out in the National Planning Policy Framework in respect of heritage asset significance. Recommends the application for approval.

Summary Of Representations

The application was publicised through a site notice and neighbour notification letters. Five neighbour notification letters were sent to those neighbours which the development could affect. No representations have been received.

Relevant Planning History

P/1993/0081: Enclosure of open area below lower ground floor to form glazed sun terrace. Approved 03/03/1993.

DEP/2010/0478: Solar Panels on roof. Approved 30/09/2010.

P/2015/0479: Construction of additional storey. Refused 31/05/2015.

APP/X1165/D/15/3134648: Appeal in relation to P/2015/0479. Dismissed 26/01/2016.

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. Visual amenity
2. Neighbour amenity
3. Ecology and trees
4. Flood risk
5. Other considerations

1. Visual amenity

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general.

An extension to the host dwellinghouse would not be inimical to the underlying character of the area and the proposal addresses and satisfies the concerns previously raised by the Appeal (APP/X1165/D/15/3134648). The proposal maintains the step-down in the building form reflecting the falling land levels along the street frontage, the proposed fenestration detailing would complement the existing openings and it would rectify and detract the visual appearance of the awkward first floor overhang on the northern flank. Given its siting, scale, and design it is considered that the proposed extension would be subservient to the host dwelling and would not result in unacceptable harm to the character or visual amenities of the locality.

Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them. The Conservation Officer is satisfied that the proposal in relation to scale and massing is appropriate and is satisfied that the design will not have an adverse impact on the character and appearance of the Torquay Harbour Conservation Area or on the setting of the nearby Listed Building Vane Tower.

Therefore, the proposal is considered to be in accordance with Policy DE1 Design, DE5 Domestic Extensions and SS10 Conservation of the Historic Environment of the Local Plan, and the guidance contained in the NPPF.

2. Neighbour amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The proposed development is on the northern side of the dwelling, which is adjacent to Vane Hill Road, and no neighbouring property is directly within the vicinity of this part of the dwelling. Neither the proposed extension nor the roof terrace would result in an unacceptable level of overlooking on any nearby neighbour. Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours in terms of their outlook, privacy, access to light, or in any other respect.

In terms of its impact on neighbouring amenity, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

3. Ecology and trees

The application has been accompanied by an ecological survey report. This report confirmed that the proposal would not impact upon nesting birds and no evidence of bats was found. No further surveys are required. The proposal would build upon an existing built form and therefore the protected trees on site and in close proximity to the site would not be affected directly or indirectly.

The proposal therefore complies with Policies NC1 and C4 of the Local Plan.

4. Flood risk

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area. As the proposed development would not result in an increase in the impermeable area on the site, the proposal is deemed acceptable in terms of its impact on surface water flooding. Given the nature of the proposal, the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

5. Other considerations

This assessment has been undertaken having regard to the provisions of the emerging Torquay Neighbourhood Plan.

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

Statement on 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.

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.

Conclusions

The proposed development is considered acceptable, having regard to the adopted Torbay Local Plan 2012-2030, and all other material considerations.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

DE5 – Domestic Extensions

ER1 – Flood Risk

NC1 – Protected Sites

SS10 – Conservation and Historic Environment

Application Number

P/2018/0117

Site Address

Park Railings
Victoria Park
Paignton

Case Officer

Gary Crawford

Ward

Roundham with Hyde

Description

5 x advertisement banners (revised plans received and description amended 26.06.2018)

Executive Summary/Key Outcomes

This application for advertisement consent proposes the installation of five banner advertisements on the railings at the Torquay Road frontage of Victoria Park, Paignton. The banners would be positioned on the northern section of the railings, close to the junction with Cecil Road.

The proposed banners are considered to be acceptable in terms of visual amenity and public safety. The proposal is therefore deemed appropriate for advertisement consent.

Recommendation

Conditional approval (standard condition).

Reason for Referral to Development Management Committee

As the development is on Council-owned land and two objections have been received, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

The determination date was 1st April 2018. The application has exceeded the determination date to allow the submission of revised plans to address concerns raised by officers.

Site Details

The site, Victoria Park, Paignton, is a public park which is located close to Paignton town centre. The boundary treatment on the Torquay Road elevation of the park consists of a low stone wall with metal railings above. Victoria Park is designated as an Urban Landscape Protection Area in Policy C5 (Urban Landscape Protection Areas) of the Local Plan.

Detailed Proposals

The application is for the installation of five banner advertisements on the railings on the Torquay Road frontage of Victoria Park. The original plans proposed that ten banners would be installed on the railings. However, Planning Officers consider this number of banners to be visually unacceptable and the drawings were revised to reduce the number of banners to five.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Paignton Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

Summary of Consultation Responses

Highways: No objections in principle but have raised concerns about who will attend to the banners if they become vandalised or come away from the railings.

Summary of Representations

Two letters of objection have been received which have raised the following issues:

- Impact on local area
- Not in keeping with local area
- Overdevelopment
- Impact on highway safety

Relevant Planning History

P/1988/1521: Banner Sign At Torquay Road Boundary Wall. Approved 12/10/1988.

ZP/2007/0937: Erection Of Banner. Response sent 7/8/2007.

ZP/2008/0362: Erection Of Banners. Response sent 4/7/2008.

ZP/2011/0497: Place banner on railings for Liquid ICE 2008Ltd. Response sent

8/9/2011.

Key Issues/Material Considerations

The key issues to consider in relation to this application for advertisement consent are:

1. Visual amenity
2. Public safety

1. Visual amenity

Policy DE6 (Advertisements) of the Local Plan states that advertisements will not be permitted where they would harm visual amenity. The proposed advertisement banners would be sited on the railings on the Torquay Road frontage of Victoria Park, close to the junction with Cecil Road. Given that the proposal is for five banners which would be grouped closely together on the northern section of the railings, it is considered that the proposal would not be unacceptably harmful to the visual character of the area.

Victoria Park is designated as an Urban Landscape Protection Area (ULPA) under Policy C5 (Urban Landscape Protection Areas) of the Local Plan. Given that the proposed banners are not fixed structures; that they would be positioned close together on the Torquay Road frontage; and that permission would be granted for a five year period, it is considered that the proposal would not undermine the value of the ULPA.

As such, it is considered that the proposal would comply with Policies DE1, C2 and C5 of the Torbay Local Plan.

2. Public safety

In terms of public safety, the Council's Highways department have raised no objections to the proposed advertisement banners in relation to danger caused to pedestrians and road users. As such, it is considered that the proposed advertisement banners would not result in any unacceptable impacts upon public safety.

Neighbourhood Plan

The proposal accords with the Paignton Neighbourhood Plan, including Annex 2 (Design Guide) to Policy PNP1 and Policy PNP9 (Victoria Park).

S106/CIL

Not applicable for this type of development.

Statement on 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.

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.

Conclusions

The proposed advertisement banners are considered to be acceptable in terms of visual amenity and public safety. The proposal is therefore appropriate for advertisement consent, having regard to Policies C2, C5, DE1, and DE6 of the Torbay Local Plan, and all other material considerations.

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

C2 – The Coastal Landscape
C5 – Urban Landscape Protection Areas
DE1 - Design
DE6 – Advertisements