



Friday, 4 January 2019

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 14 January 2019

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby	Councillor Tolchard
Councillor Lewis (B)	Councillor Winfield
Councillor Morey	Vacant Liberal Democrat
Councillor Pentney	Councillor Manning

A prosperous and healthy Torbay

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

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

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 10 December 2018.
3. **Declarations of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
5. **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.
6. **East Quay, Brixham (P/2018/0003)** (Pages 6 - 12)
Erection of a refreshment kiosk on East Quay, Brixham, next to the public conveniences.
7. **Shelter Adjacent Cantina Kitchen And Bar, Youngs Park Road, Paignton (P/2018/1055)** (Pages 13 - 27)
Conversion of shelter to function room to be used in association

with Cantina Kitchen and Bar.

- 8. Land To Rear Of Broadway, Dartmouth Road, Brixham (P/2018/0837)** (Pages 28 - 35)

A Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling within a site that has outline approval for up to ten dwellings. It is accompanied by a separate reserved matters application for nine units within the same site.
- 9. Land To Rear Of Broadway, Dartmouth Road, Brixham (P/2018/0852)** (Pages 36 - 45)

A Reserved Matters application seeking approval for the layout, appearance, scale, and landscaping of 9 dwellings. The site is within the Churston/Galmpton village envelope.
- 10. South Devon Police Station, Southfield Road, Paignton (P/2018/0881)** (Pages 46 - 62)

A reserved matters application is for detailed consent for the layout, scale, appearance and landscaping for 36 apartments on the former site of Paignton Police Station, off Southfield Road. This follows the granting of outline permission for 46 apartments on the site under planning reference P/2017/1117, with detailed access approved.
- 11. Shop Unit, Winner Street, Paignton (P/2018/1104)** (Pages 63 - 70)

The application proposes a change of use on the ground floor of 159 Winner Street, Paignton, from a retail unit to a one-bedroom apartment.
- 12. MyPlace, Parkfield, Colin Road, Paignton (P/2018/1113)** (Pages 71 - 79)

Change of use from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works.



Minutes of the Development Management Committee

10 December 2018

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Lewis (B), Lewis (C), Morey, Pentney and Winfield

24. Apologies for absence

An apology for absence was received from Councillor Manning.

25. Minutes

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

26. Astoria Court, Belle Vue Road, Paignton (P/2018/0184)

The Committee considered a revised application for the above application.

At the meeting Nicola Burley addressed the Committee in support of the application.

Resolved:

Approved subject to the completion of a further period of public consultation, with the final drafting of conditions (including those set out in the submitted report) and addressing any material matters that might arise from the consultation exercise being delegated to the Assistant Director for Planning and Transport.

27. Claylands Cross, Brixham Road, Paignton (P/2018/0700)

The Committee considered a Hybrid application for:

- (i) full application for service road, with Phase 1 building and associated car parking and loading yard.
- (ii) outline application for Phase 2 building and associated car parking and loading yard with all matters reserved except for access.

Including two industrial units totalling 10,788 sqm. Phase 1 unit for B2 (general industrial) use; Phase 2 unit for B8 (storage/distribution), B2 (general industrial), or B1 (business) use.

Prior to the meeting, Members of the Development Management Committee undertook a site visit. At the meeting Alan Denby addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- (i) Habitats Regulation Assessment that concludes the proposed development would not have a likely significant effect on the South Hams SAC and the imposition of any proposed conditions;
- (ii) submission of a final detailed junction design to the satisfaction of Officers in consultation with the Highway Authority;
- (iii) submission of additional information in regard to tree protection measures and mitigation tree planting, to the satisfaction of Officers; and
- (iv) Final drafting of conditions and any necessary S106 Legal Agreement to be delegated to the Assistant Director of Planning and Transport.

Chairman

Application Number

P/2018/0003

Site Address

East Quay
Brixham
TQ5 8AW

Case Officer

Miss Emily Elliott

Ward

Berry Head With Furzeham

Executive Summary/Key Outcomes

This planning application is for the erection of a refreshment kiosk on East Quay, Brixham, next to the public conveniences.

The proposal is considered to be acceptable in this location and without any overriding detriment to the character or appearance of the locality. Consequently, the proposal meets Local Plan policy requirements.

Recommendation

Approval.

Reason for Referral to Development Management Committee

As the proposed development is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from consultees, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

8th March 2018. The applicant revised the original plans due to the concerns given by the Council's Conservation Officer and has had to submit additional flood risk information to satisfy the concerns of the Council's Drainage Engineer.

Site Details

The application relates to a small parcel of land sited on East Quay in Brixham, which comprises Grade II Listed walls and quays on all four sides of the harbour, extending from New Pier to Kings Quay, and is located within the Brixham Town Conservation Area. The application site lies in between an area of seating and the public conveniences.

Detailed Proposals

This planning application proposes the erection of a refreshment kiosk. The application was retrospective, however the kiosk has now been removed due to it being the off-peak season. It should be noted that the original submitted plans

did not reflect the built form present on East Quay and therefore the plans have been revised in line with the suggestions made by the Conservation Officer.

The kiosk would be 5 metres in width, 3 metres in depth and 3.4 metres in height with a flat roof to match the neighbouring public conveniences. The proposed materials are horizontal cladding to match the materials and colour of the public conveniences, with wood shutter doors.

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

Community Safety: Object. The application makes no mention of where the water supply will come from. Food Hygiene Law requires that a food business must have 'an adequate supply of potable water, which is to be used whenever necessary to ensure that foodstuffs are not contaminated' (Regulation (EC) 852/2004 Annex II Chapter 7 para 1(a)). Potable water must be used for hand washing, for cleaning surfaces that come in to contact with food or the hands of food handlers, cleaning food equipment and cleaning food. Water from the mains supply in the UK can be assumed to be potable (fit to drink) and we would expect the premises to have a mains water supply. The law requires that 'drainage facilities are to be adequate for the purpose intended. They are to be designed and constructed to avoid the risk of contamination' (Regulation (EC) 852/2004 Annex II Chapter I para 8). That is to say the drainage systems serving the food premises must be capable of efficiently disposing of waste water from hand washing, food washing and equipment washing and must prevent the entry of foul air or effluent from the drainage system into the food rooms. The application details for trade effluent 'collection and disposal on a daily basis'. We would expect the kiosk to be connected to the mains drainage system.

Drainage Engineer: No objection. A takeaway kiosk of this nature would be classified as less vulnerable when considering flood risk. Developments of this vulnerability are allowed within Flood Zone 3. Due to the small size of the proposed development, the submitted flood risk assessment would be suitable.

Conservation Officer: No objections to the revised plans. From the conservation perspective they've now agreed the suggestions made back in February. So I have no disagreement with those now accepted modifications.

Brixham Town Council: Objection based on design being out of keeping in a conservation area and against the guidance set out in the Town Design Statement in the submitted Brixham Peninsula Neighbour Plan.

Strategic Planning: No objections to the introduction of a small retail use in this edge of centre location.

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 were received.

Relevant Planning History

No previous planning history relating to the site.

Key Issues/Material Considerations

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

1. Principle of Development
1. Visual Impact
3. Development Amenity
4. Flood Risk
5. Other Considerations

1. Principle of Development

Policy TO1 of the Local Plan supports in principle the improvement of existing and the provision of new tourist accommodation and attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. The application site is located within the Core Tourism Investment Area (CTIA) as designated in Policy TO1. As such, given the site's location within a CTIA and as the proposed kiosk provides an additional area for individuals to purchase refreshments who are visiting the Brixham Harbour and particularly East Quay, the proposal would comply with Policy TO1 of the Local Plan.

Policy TC3 of the Local Plan is for retail development proposals in Torbay. The site lies immediately adjacent to the Brixham Town Centre and is not sited directly within a retail centre, however it is easily accessible and well connected to Brixham Town Centre. It should be noted that Policy TC3 is applicable to this application, as the site is immediately adjacent to the Brixham Town Centre it classifies as edge-of-centre proposal. Due to its diminutive nature, it is considered that the proposal is of a scale and nature which complements the role and character of the area as it offers refreshments to those visiting the seaside location. The proposal would not result in harm to the vitality and viability of Brixham Town Centre and would provide a positive tourist element to East Quay. The proposal should not cause any unacceptable impacts (individually or cumulatively) on the existing centre or undermine any special cultural or tourism appeal and will not result in the loss of key retail, tourism, cultural or other facilities. On balance, the proposal is considered to comply with Policy TC3 of the Local Plan due to its edge-of-centre location and diminutive nature and the guidance contained within paragraph 87 of the NPPF.

2. Visual Impact

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. 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.

There are a number of kiosks located along Brixham Harbour and East Quay. Given its siting, scale, and design it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality. The proposal is considered to be in accordance with Policy DE1 of the Local Plan, and the guidance contained in the NPPF.

The site is located within the Brixham Town Conservation Area. 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. Brixham Town Council have objected to the application based on the design being out of keeping in a conservation area and against the guidance set out in the Town Design Statement in the submitted Brixham Peninsula Neighbourhood Plan. Initially, the Council's Conservation Officer also raised concerns. However, since that time, revised plans have been received to overcome the Conservation Officer's initial concerns, which were to ensure that the material of the shutter door on the kiosk was wooden. The Conservation Officer has stated that the revised plans are considered acceptable.

Given the proposal's siting, modest scale, design, and presence of broadly similar structures in the locality, in addition to the advice received from the Council's Conservation Officer, it is considered that the proposal would result in less than substantial harm to the conservation area. However, the degree of harm is limited and outweighed by public benefits through the provision of a refreshment outlet that would contribute to the area's tourism offer. On balance, the proposal is considered to be in accordance with Policy SS10 of the Local Plan and the guidance contained in the NPPF.

3. Development Amenity

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

The proposal would be sited on East Quay next to the public conveniences and a public seating area. Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. The Environmental Health Officer has objected to the proposal on the grounds of food hygiene and risk of food hygiene contamination, however, these concerns should carry limited planning weight as they are more appropriately dealt with under other legislative regimes.

The proposal is therefore considered to be in accordance with Policy DE3 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 and in Flood Zone3. The application is accompanied by a site specific Flood Risk Assessment. The Council's Drainage Engineer raises no objection to the proposal and states that a kiosk of this nature would be classified as less vulnerable when considering flood risk and therefore developments of this vulnerability are allowed within Flood Zone 3. The Council's Drainage Engineer has stated that due to the small size of the proposed development, the submitted flood risk assessment would be suitable. The proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

As the proposal is intended to provide a refreshment kiosk to serve a Core Tourism Investment Area, which forms part of a coastal location, there are not considered to be any sequentially preferable locations for siting the proposal. As such, the proposal is in accordance with the guidance contained in the NPPF.

5. Other Considerations

The Brixham Peninsula Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policies for this application are Policy J5 (Sustaining a Vibrant Harbour-Side Economy) and BE1 (Heritage Assets and their Setting). Policy J5 states that development proposals around the harbour should be in conformity with Policy TO1 of the Local Plan. The proposal complies with Policy TO1 of the Local Plan and therefore complies with Policy J5 of the Brixham Peninsula Neighbourhood Plan. Policy BE1 states that proposals which affect designated and non-designated heritage assets must comply with the requirements of the National Planning Policy Framework and the relevant policies of the Local Plan. The Council's Conservation Officer is satisfied with the revised proposal, as are planning officers, and as discussed above, the proposal complies with the NPPF and the Local Plan. The proposal is in accordance with Policy BE1 of the Brixham Peninsula Neighbourhood Plan.

The proposal is therefore considered to be comply with the Brixham Peninsula 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 proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. The refreshment kiosk hereby approved shall be operated in accordance with the submitted and approved flood risk assessment received 15th November 2018.

Reason: In the interests of managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and ER2 of the Adopted Local Plan.

Informative(s)

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

Relevant Policies

DE1 - Design
SS10 - Conservation and Historic Environment
TO1 - Tourism, events and culture
DE3 - Development Amenity
ER1 - Flood Risk

Application Number

P/2018/1055

Site Address

Shelter Adjacent Cantina Kitchen And Bar
Youngs Park Road
Paignton
TQ4 6BU

Case Officer

Miss Emily Elliott

Ward

Goodrington With Roselands

Description

Conversion of shelter to function room to be used in association with Cantina Kitchen and Bar.

Executive Summary/Key Outcomes

The application relates to an established café, bar and restaurant situated at the northern side of Youngs Park. The proposal would result in the conversion of a public shelter to a function room to be used in association with Cantina Kitchen and Bar. The proposal would result in the extension of the existing bar and eatery use.

The proposal would result in the expansion of an existing business in a popular tourist area close to Goodrington beach that will improve the facilities available to tourists within a Core Tourism Investment Area. The applicant has stated that the proposal would maintain the equivalent of 50 full time jobs. It is considered that the design and appearance of the proposal would make a positive contribution to the appearance and character of the area. The application site is located within Flood Zone 3b, which has the highest probability of flooding, but is in accordance with policy nevertheless.

Therefore, it is deemed that the proposed development would be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

Recommendation

That planning permission is granted, subject to the conditions detailed below and the completion of a legal agreement to secure a sustainable transport contribution of £3,249. The final drafting of conditions, the completion of the legal agreement, and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Reason for Referral to Development Management Committee

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

Statutory Determination Period

17.12.2018.

Site Details

The site comprises a detached building situated at the northern end of Young's Park, Paignton. The building is currently in use as a public shelter and features archways, with a flat roof and a hip-roofed tower. The Cantina Kitchen and Bar is located to the east of the site. A public footpath runs along the front entrance of the site and Cantina Kitchen and Bar. The site is located within a Core Tourism Investment Area as designated in Policy TO1 (Tourism, Events and Culture) of the Local Plan and the site is also designated as an Urban Landscape Protection Area in Policy C5 (Urban Landscape Protection Areas). The site is located within Flood Zone 3. The site is within 250 metres of the Roundham Head SSSI.

Detailed Proposals

The application is for the conversion of an existing public shelter to be used as a function room in association with Cantina Kitchen and Bar. The proposal will enable Cantina Kitchen and Bar to increase its capacity and ensure that the business can accommodate the increase in demand for functions. The conversion will provide Cantina Kitchen and Bar with an additional 207.5 square metres of space. The proposal would infill the existing arches with aluminium windows and doors and will provide external lighting to the arches. The conversion would form a kitchen, function room, toilets and storage.

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

Conservation Officer: In conservation terms there is only one issue to be

addressed: the glass doors and windows. Drawing 1645 EL 001 shows that neither the doors nor the windows are appropriate for their openings: the lintels have disappearing corners at the arcs above the springing of the arches; the doors have different proportions in their tripartite divisions from those of the windows; the central door has much thicker sections than the windows' mullion divisions. In any case the lintel height to all openings has been determined by the demands of standard doors, but these are a mismatch to the harmonious proportions of the reveals of this shelter.

The simplest solution is simply to have full-height bi-partite doors; and for the windows, which are non-opening, a single sheet, or two panes centrally divided to mirror the bi-partite doors - and they should all be set centrally in the reveal not stepped behind it in a separate plane behind the arcade wall. D01 in room GO5 should not be treated differently. The glass doors should fill the whole reveal, like D02/03/04/05/06/07; they can be subtly obscured to conceal the contents of the store room.

Since receiving the revised plans - To begin with the major design failure is that both the alternate door openings, and the sealed window units ignore the arch reveals: they are hinged from a subsidiary parallel stud wall inside the body of the structure. Further the irregularity of appearance is a visual affront: thick mullions for the door openings alternate with thin ones for the window units, both unit types having a central lintel between the jambs which has no aesthetic or visual relationship to any other forms. The whole approach is that of a shop fit, but this is a piece of architecture, very public architecture, which needs to be treated correctly. Any architect would start with the reveals, form frames within them and then design doors and glazed panels across the axes of the arch, which in this case, because of the low springing heights precludes any lintel, and should be simply bi-partite from threshold to soffit. I cannot recommend the proposals at all, and suggest that they are refused in their entirety - not conditioned.

Torbay Development Agency: Supports the application for the conversion of shelter to function room to be used in association with Cantina Kitchen and Bar. This exciting new development, of a mainly unused shelter, will provide an improved food and drink offer all year round for one of Torbay's most popular beaches. Cantina has dramatically improved the food and drink offer for the area, serving quality and locally sourced produce, including seafood from Brixham Fish Market. The business is recognised locally and regionally receiving excellent ratings on TripAdvisor.

On Paignton's popular Goodrington Sands, the new development will make more efficient use of the shelter structure, bringing well needed investment. Of particular importance, the new function room will support the development of the visitor economy, currently worth £435m, attracting 4.5m visitors a year. The investment aligns to ambitions of the English Riviera's Destination Management Plan 2017-2021 including:

- o Attracting new visitors
- o Attracting investment
- o Increasing visitor spend

Although not mentioned in the application, we hope the new development will also create new jobs in Paignton, a welcome investment to support the local economy and develop skills. We would encourage the business to continue its links with South Devon College to develop Apprenticeships in the visitor economy and to also attend the annual Torbay Jobs Fair to employ local talent.

Arboriculture Officer: There is an established group of palms to the rear of the proposal which offer a significant back drop to the shelter. There is a new waste pipe system to be installed to the rear and this would appear to be in conflict with the trees. We would be concerned over the installation of the pipe and impact on tree health.

To overcome this concern I would recommend that:

1. The waste pipe is redirected into the park, and not along the rear of the proposal within the rooting area of the palms.
2. The application is supported by a landscape plan which addresses hedges and new planting.

Drainage Engineer: No objections. The proposed development lies within Flood Zone 3 and a site specific flood risk assessment has been submitted with the application. This site specific flood risk assessment identifies the sources of flooding together with proposed mitigation measures. Providing the conversion incorporates the mitigation measures identified within the site specific flood risk assessment there are no objections on drainage grounds to planning permission being granted.

Environment Agency: No objections to the proposed development. The flood risk assessment and maps indicate that the site lies within flood zone 3 and highlights the history of flooding in this area in 2004. The area of Youngs Park was also affected by wave overtopping from Storm Emma earlier this year. However, it is considered that the intended use of the converted building is 'less vulnerable' as it is at present. As the primary risk is from tidal inundation it is reasonable to assume that there would be sufficient time to react to rising water levels. However, we would recommend the provision of a door to the north of the building leading to the higher ground. We would also endorse the advice regarding preparation of a flood plan and signing up for flood warnings.

Paragraph 7-038 of the Planning Practice Guidance (PPG) and paragraph 160 of the NPPF are clear that access and egress needs to be part of the consideration of whether new development will be safe. Paragraph Reference ID: 7-039-20140306 of the PPG provides further guidance. If you are minded to approve the application on the basis that other material considerations outweigh the flood

risk, you may wish to consult internally with your Emergency Planners to determine their views on safe refuge as an alternative to safe access and egress. They will need to confirm that they can incorporate the additional occupants into their emergency evacuation plans.

In view of the potential flood risks in this locality, we would advise that any developer of this site gives consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation. Detailed information on flood proofing and mitigation can be found by referring to the CLG free publication 'Improving the Flood Performance of New Buildings'. It would also be advisable for the applicant to prepare a flood plan which outlines how the business will respond to a flood.

Community Safety Officer: No objections.

Strategic Appraisal Officer: The proposed development does not overlap with any designated conservation site. It is not within the South Hams SAC sustenance zone or strategic flyway as designated by Natural England (2010). The interrogation of Magic Maps shows that a component of the Lyme Bay and Torbay Marine SAC reefs Feature is approximately 360m, at its nearest point, from the site. The nearest sea cave is approximately a mile to the south east from the site.

Appropriate pollution control measures (for both water and air) should be applied in accordance with Defra guidelines <https://www.gov.uk/guidance/pollution-prevention-for-businesses> throughout the construction phase and where appropriate, method statements should be followed for high-risk activities, such as refuelling and use of concrete. With these measures in place, there would be no likely adverse effects on the SAC as a result of the potential spread of dust, sediments or other water or air borne pollutants.

Strategic Transport Officer: Since the space is below 500sqm a retail impact assessment will not be applicable (Policy TC3). The proposal is for less than 300sqm and therefore CIL is also not applicable.

The function facility for 98 covers will provide the opportunity to provide larger scale events and I therefore recommend the provision of a proportionate Travel Plan with 'SMART' targets seeking 30% modal shift for staff and customers (Local Plan Policy TA2 and TA3 -Appendix F apply) Secured and covered cycle parking for the maximum level of staff at any one time (1 per 2 staff) would be appropriate. A parking Management Plan setting out limited on-street parking and therefore to encourage use of the nearby public pay and display car park (during times of its operation) and discourage inconsiderate parking should also be provided. Both can be conditioned prior to occupation (use).

Since CIL is not applicable, Sustainable Transport Planning Contributions need to be considered. Using a ratio of 1 space per 33 sq m for the proposed internal gross floor area, this would still would create a demand of 6 car parking spaces. I note that whilst this is not a town centre site, as noted above, the site is within the CTIA and many visitors will use sustainable transport. I have therefore applied a 20% reduction as would be applied to town centre proposals. This would result in a shortfall of parking for the new (internal) floor space. Since the additional parking cannot be achieved onsite, a S106 sustainable transport contribution would be appropriate (I have calculated this to be £3,249). This could be used to invest in signage and improvements to the SWCP and pedestrian and cycle routes in the vicinity.

The Planning Contributions & Affordable Housing Supplementary Planning Document also considers the contribution to employment/economic impact of the proposal and it would be reasonable to discount any new additional FTE jobs created. The previous proposal benefited from this discounting process. The Planning Contributions Document indicates 1 FTE per 15-20 sqm for this type of use.

A construction management plan (CMP) should be submitted to ensure that public areas on the footway and promenade are not unduly obstructed. This could be conditioned.

Summary Of Representations

The application was publicised through a site notice and neighbour notification letters. 36 neighbour notification letters were sent to those neighbours which the development could affect. 4 letters of objection and 52 letters of support have been received.

Issues raised by the objectors:

- Impact on local area.
- Noise.
- Traffic and access.
- Odour.
- Loss of a public facility.

Comments in support include:

- It provides facilities.
- Impact on the local area.
- Makes tourist facilities better.
- Provides/retains jobs.
- It removes an eyesore.
- Removes anti-social behaviour.
- It's shown in the Local Plan.

Relevant Planning History

P/2017/1160: Single storey wraparound extension with two roof lights, front entrance ramp, new entrance doors and installation of storage unit (revised plans received 11.01.2018). Approved 27/02/2018.

Key Issues/Material Considerations

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

1. Principle of the Development
2. Visual Impact
3. Impact on Amenity
4. Highways Impacts
5. Flood Risk
6. Ecology
7. Other Considerations

1. Principle of the Development

Policy TO1 Tourism, Events and Culture of the Local Plan supports in principle the improvement of existing and provision of new tourist accommodation and attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. Furthermore, Policy TO1 will be achieved via the retention, improvement and creation of new, high quality tourism and leisure attractions, facilities and accommodation in sustainable, accessible locations with a particular focus on Core Tourism Investment Areas (CTIAs), which include Goodrington Sands and Clennon Valley in Paignton. Given that the application site is located within the Goodrington Sands and Clennon Valley CTIA, and as the proposal involves the improvement of an existing tourist facility, it is deemed that the principle of the development is acceptable, subject to compliance with other relevant Local Plan policies.

Policy SDP1 of the Local Plan states that the role of Goodrington as a leisure and employment hub will be promoted and enhanced, whilst protecting the area's environmental assets. In addition, Policy SS1 Growth Strategy for a Prosperous Torbay of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

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 enables expansion and diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, including tourism, hotel and catering. The applicant has detailed in the submitted Design and Access Statement that the proposal would develop the existing building at the north end of Youngs Park currently trading as Cantina Bar and Kitchen to

provide increased capacity and better all year round capacity and operational facilities.

A restaurant (Class A3 use) is designated as a main town centre use in the Glossary of the National Planning Policy Framework (NPPF). Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre, however, this test should be balanced against other benefits of the proposal, including the improvement of existing tourism and leisure facilities in a core tourism investment area. Letters of support state that the proposal will make tourist facilities better and it provides and retains jobs. Policy TO1 (Tourism) of the Torbay Local Plan states that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. Policy TO1 details further that Torbay Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services. This will be achieved through the following measures:

- Supporting in principle the improvement of existing and provision of new tourist accommodation and attractions.
- The retention, improvement and creation of new, high quality tourism and leisure attractions, facilities and accommodation in sustainable, accessible locations with particular focus on Core Tourism Investment Areas (CTIAs)

Given that the application site is located within the Goodrington Sands and Clennon Valley CTIA as designated in Policy TO1, and the proposed extension would improve the provision of tourist attractions, it is considered that the principle of the proposed development is acceptable, and in accordance with Policy TC3 (Retail Development) of the Local Plan, and the guidance contained in the NPPF.

2. Visual Impact

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. 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.

Policy C2 (The Coastal Landscape) of the Local Plan specifies that in the developed areas of coast, development will be permitted where it provides benefit to Torbay's economy and does not unacceptably harm the landscape character and appearance of natural, historical or geological assets.

The application site is located within an area designated as an Urban Landscape Protection Area in Policy C5 Urban Landscape Protection Areas of the Local Plan. Policy C5 specifies that development within Urban Landscape Protection Areas (ULPAs) will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

In terms of operational development, the proposal would result in what are considered to be modest changes to an existing structure. It should be noted that the Council's Conservation Officer has objected to the scheme due to the proximity of the site in relation to the Roundham and Paignton Harbour Conservation Area. The concerns are noted, however the external alterations to the public shelter will be visible from the elevation facing away from the Conservation Area. Therefore, it is considered that the proposed works would not adversely affect the character and appearance of the existing building and the surrounding area. In addition, it is deemed that the extension would make a positive contribution to the urban environment and enhance the landscape character of the ULPA. It is deemed that it would not have a significantly adverse effect on the character of the ULPA. There would not be any harm to the conservation area.

Objectors have raised concerns with regards to the proposal having a negative impact on the character of the area. Letters of support state that the proposal will have a positive impact upon the local area and it will remove an eyesore. It is considered that in terms of the proposed use, the proposal would not manifest itself in any way that would result in harm to the character of the area. A condition is recommended to secure details of the proposed fenestration works.

Given its siting, scale, and design it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality. As such, it is considered that the proposal would comply with Policies DE1, C2 and C5 of the Local Plan, and the guidance contained in the NPPF.

3. Impact on Amenity

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

The proposal is to convert an existing public shelter into a function room for Cantina Kitchen and Bar. The letters of objection include issues arising around noise, odour and loss of a public facility. Letters of support state that the conversion of the public shelter will remove anti-social behaviour. The Council's Community Safety Officer has raised no objection to the proposal. Given its siting, scale, and design, it is considered that the proposal would not result in any

unacceptable harm to the amenities of neighbours.

The proposal is therefore considered to be in accordance with Policy DE3 of the Local Plan.

4. Highways Impacts

There is a public car park located on the south western side of Youngs Park and a National Cycle Network runs through the middle of Youngs Park. Objectors have raised concerns regarding traffic and access, however due to the close proximity of a pay and display public car park and cycle network it is considered that the concerns are mitigated. The Council's Strategic Transport Officer has stated that the proposal provides a function room and therefore the opportunity to provide larger scale events and therefore requests the provision of a proportionate Travel Plan with 'SMART' targets seeking 30% modal shift for staff and customers. The proportionate Travel Plan can be conditioned and would be the scheme acceptable with regards to Policies TA2 (Development Access) and TA3 (Parking Requirements) of the Local Plan. (Local Plan Policy TA2 and TA3 - Appendix F apply).

The Council's Strategic Transport Officer has stated that there should be adequate provision of secured and covered cycle parking for the maximum level of staff at any one time, to which one cycle space per two staff would be appropriate. The Council's Strategic Transport Officer has requested that a Parking Management Plan be submitted and approved, setting out how street parking will be limited, and the use of the nearby public pay and display car park will be encouraged. The provision of cycle parking and a Travel Plan would also be intended to reduce the use of private motor vehicles.

The Planning Contributions & Affordable Housing Supplementary Planning Document considers the contribution to employment/economic impact of the proposal and it would be reasonable to discount any new additional full time equivalent jobs created. The Planning Contributions & Affordable Housing Supplementary Planning Document indicates that there is 1 full time equivalent employee per 15-20 square metres for the proposed use, however the application form states there will be 50 full time equivalent employees.

With the provision of a proportionate Travel Plan, cycle parking and a Parking Management Plan, which can both be secured by way of condition, the proposal is considered to accord with Policies TA2 and TA3 of the Local Plan.

5. 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 and in Flood Zone 3. The

application is accompanied by a site specific Flood Risk Assessment. The Council's Drainage Engineer raises no objection to the proposal and states that the submitted site specific flood risk assessment identifies the sources of flooding together with proposed mitigation measures. The Council's Drainage Engineer has stated that providing the conversion incorporates the mitigation measures identified within the site specific flood risk assessment there are no objections on drainage grounds to planning permission being granted.

The Environment Agency raises no objections to the proposal. The Environment Agency has stated that the flood risk assessment and maps indicate that the site lies within Flood Zone 3 and highlights the history of flooding in this area in 2004 and the area of Youngs Park was also affected by wave overtopping from Storm Emma earlier this year. The Environment Agency states that the intended use of the converted building is 'less vulnerable' as it is at present and as the primary risk is from tidal inundation it is reasonable to assume that there would be sufficient time to react to rising water levels. The Environment Agency recommends that a provision of a door to the north of the building leading to the higher ground for potential flood risk and endorse the advice regarding preparation of a flood plan and signing up for flood warnings.

Whilst the site is located within the floodplain, the National Planning Practice Guidance is clear that the sequential and exceptions tests do not need to be applied to non-domestic extensions of less than 250sqm in area. Subject to the proposed safety measures, forming part of the submitted FRA, are implemented, the proposal is considered to be acceptable in the proposed location.

The proposal is considered to be in accordance with Policy ER1 of the Local Plan and the guidance contained in the NPPF.

6. Ecology

It is concluded, given the scale, nature, and location of the proposal, and the proposed use of mitigation measures, that a Habitats Regulations Assessment is not required.

7. Other Considerations

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policies for this application are Policy PNP1(c) Design Principles and Policy PNP25 Clennon Valley.

Policy PNP1(c) requires development proposals to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials. The proposal is considered to comply with Policy PNP1(c) as the materials maintain those of the existing structure and infill the

arches with aluminium windows and doors, and the scale and bulk of the proposal is in keeping with the surrounding area. The proposal is therefore considered to accord with Policy PNP1(c).

Policy PNP25 states that development proposals will be supported that retain and enhance the natural landscape character of the valley, biodiversity and waterway flowing through; safeguard footpaths and facilities used by local residents; improve provision of facilities for tourists that widen the tourism offer; provide facilities that will be resilient to flood risk; and widen the provision of all-weather tourist attractions. The proposal improves the provision of an existing facility of Cantina Kitchen and Bar for tourists and addresses the flood risk. The proposal therefore complies with Policy PNP25.

The proposal is therefore considered to comply with the Paignton 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 proposal is considered to be acceptable, having regard to the Local Plan and all other material considerations.

Condition(s)/Reason(s)

01. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The submitted details shall include measures to prevent pollution into nearby watercourses and the sea. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a) The parking of vehicles of site operatives and visitors.
 - b) Loading and unloading of plant and materials.
 - c) Storage of plant and materials used in constructing the development.
 - d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - e) Wheel washing facilities.
 - f) Measures to control the emission of dust and dirt during construction.
 - g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
 - h) Measures to minimise noise nuisance to neighbours from plant and machinery.
 - i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

02. Prior to the development hereby approved being brought into use, details of secure and lockable bicycle storage spaces shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include information about the layout and the design of the facilities. These facilities shall be made available for use by users of the site in accordance with the approved details prior to the development being brought into use, and shall be maintained as such at all times.

Reason: To provide for and encourage sustainable forms of travel to and from the site, in accordance with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

03. Prior to the development hereby approved being brought into use, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details of the proposed means of encouraging the use of sustainable modes of transportation, including the provision of information to the site's users. The use hereby approved shall be undertaken in accordance with the approved details.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

04. Prior to the occupation of the development hereby approved, a Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details about how the use of the nearby public pay and display car park will be encouraged. Once approved, the Parking Management Plan shall be implemented in full.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

05. No development shall take place until the proposed measures for preventing damage to existing trees and hedges, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interest of visual amenity and in accordance with Policies C4 and DE1 of the Adopted Torbay Local Plan 2012-2030.

06. Prior to the installation of the proposed windows and doors, details of the proposed materials and colour scheme, along with sections at a scale of 1:5 and elevations at a scale of 1:10, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

07. The development hereby approved shall be undertaken in accordance with the mitigation measures contained in the flood risk assessment referenced "1250w0002 P1" received 18th October, 2018, and shall be

retained as such thereafter.

Reason: In the interests of flood safety and in accordance with Policies ER1 and ER2 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. The applicant is reminded of their obligations in relation to pollution prevention and control, which is covered by separate legislation. Appropriate pollution control measures (for both water and air) should be applied in accordance with Defra guidelines <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

Relevant Policies

DE1 - Design
DE3 - Development Amenity
TA2 - Development access
TA3 - Parking requirements
ER1 - Flood Risk
ER2 - Water Management
TO1 - Tourism, events and culture
SS4 - The economy and employment
C2 - The coastal landscape
C5 - Urban landscape protection areas
TC3 - Retail Development
SDP1 - Paignton
NC1 - Biodiversity and Geodiversity

Agenda Item 8

Application Number

P/2018/0837

Site Address

Land To Rear Of Broadway
Dartmouth Road
Brixham
TQ5 0LH

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Executive Summary

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling within a site that has outline approval for up to ten dwellings. It is accompanied by a separate reserved matters application for nine units within the same site.

The site is located within the Churston/Galmpton village envelope.

The siting and layout of the proposed dwelling is considered to be in conflict with trees protected by a tree preservation order, which make up the eastern boundary of the site and make a significant contribution to the character and appearance of the area.

Due to the proximity of the dwelling to the protected trees, there is likely to be future pressure to lop or fell the trees as a result of conflict with the residential amenity of the proposal's future occupiers. The loss or reduction in the canopy of the protected trees would have a significant impact on the landscape character of the area and would be contrary to Policies DE1, DE3, C1 & C4 of the Torbay Local Plan 2012-2030.

Recommendation

Refusal

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House (a Grade II Listed Building). Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south.

The site is located within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding.

A Tree Preservation Order covers the eastern and northern boundaries of the site; these trees are considered to be important to the visual character of the area. The site area measures 0.27 hectares.

The site is located within the Churston/Galmpton Village Envelope in the Torbay Local Plan. This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling and associated development.

The dwelling is proposed to be a coach house with two parking spaces and would include a double garage for unit 8 of the associated development, which is the subject of an accompanying application for reserved matters (P/2018/0852) which is a development of 9 units. The dwelling under consideration would be the tenth unit associated with Outline permission P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access, approved 17.08.2015).

The dwelling is shown as being finished in render with artificial slate to the roof.

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

Natural England - No objection

SWW - No Objection

Highways - The Adopted Torbay Highway Design Guide policy states 5 dwellings and over on a new site should be encouraged to be adopted by the LHA, but to date the Developer has not contacted the LHA to prepare a section 38 Agreement with this Council.

The current layout does not show a suitable turning head that conforms with Today's Adoptable Standards.

If the Developer intends to adopt the access road then the proposals are contrary to the above policy.

Arboricultural Officer - Recommendations from previous tree officer for this part of the site still apply to unit 10. These are as follows:

“The protected trees make a highly appreciable contribution to the character and appearance of the area which is amplified by the flat local topography and paucity of blocking features. They have a readily appreciable and significant public amenity value which makes them worthy of retention in the long term, particularly as they will become more prominent as they get taller and laterally as is likely with the deciduous species into view receptors of increasing separation from the site.

Whilst the layout of the rooms could be designed to accommodate the effect of the trees in terms of allowing adequate light from aspects facing the suns path, the detrimental impact on room aspects / external amenity spaces to all other elevations would give rise to compromised living conditions for the occupiers of the property. This is likely to lead directly to pressure for cutting down, lopping or topping of the protected trees with such requests likely to be difficult for the Council to resist. Issues and concerns arising from normal seasonal debris fall, residue onto paved surfaces, washing lines, blocking of gutters, fear of harm from falling parts would amplify to erode the ability of the residents to reasonably enjoy the property.

The trees are relatively young in their life spans and will continue to grow vertically and laterally over the subject site towards the path of the sun, seeking to increase and maximise leaf area as edge trees. Continual pressure to remove branches or whole trees will be experienced which would be difficult to defend at appeal given the dense canopy of the trees covering nearly all available amenity space to North West, North and North East elevations of the unit. This partial or full erosion of canopy will lead to highly appreciable reductions to the public visual amenities presently made by the protected trees to the adjacent A road and further view receptors within the largely flat local topography. This will be negative to the visual amenities of road users, existing residents within the local and wider landscape and additionally to any new residents of the scheme

excluding those of the 10th unit.”

Senior Historic Environment Officer - The proposal will not have a detrimental impact on the character or setting of the Grade II Listed Weary Ploughman.

Summary Of Representations

None

Relevant Planning History

P/2018/0852 - Reserved Matters application in relation to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Under consideration.

P/2016/0772 - Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures. Approved 19.04.2017

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access) 30.06.2016

P/2015/0097 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 17.08.2015

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues / Material Considerations

The key issues are:

1. The principle of the proposed development
2. Design and scale
3. Impact on residential amenity
4. Other considerations

1. The Principle of the Proposed Development

The principle of residential use of the land for up to ten dwellings was established by the granting of outline planning permission, which related to access only, under planning reference P/2015/0097.

2. Design, Scale and Layout

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. 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.

The centres of Churston and Galmpton Villages consist of terraced cottages however the wider area encompassed by the Village Envelope has a varied character in terms of design, dwelling forms and plot sizes.

In the main, the external materials of dwellings within the village envelope consist of render and stone. The proposed dwelling is to be finished in render with UPVC timber effect doors and windows, and artificial slate.

Given the proposal's siting within what may become a new residential development, outside of any conservation area, it is considered that the proposed appearance and design, complies with Policy DE1 of the Torbay Local Plan. With regard to materials, the use of render and timber-effect windows is considered to be acceptable. The use of artificial slate is considered to be out of keeping with the rest of the development approved under Outline P/2015/0097 (the dwellings proposed by P/2018/0852) where natural slate is being proposed. If the proposal was deemed to be acceptable, in order to ensure the quality of the design, it is considered that a condition would be required to ensure the use of appropriate materials.

The layout of the proposal would place the proposed dwelling in very close proximity to the protected trees on the eastern boundary of the site. The Council's Arboricultural Officer has advised that this relationship is not acceptable given the likely conflict between the trees and the proposal's future occupiers. The Council's Arboricultural Officer has advised that the partial or full erosion of the canopy will lead to highly appreciable reductions to the public visual amenities the protected trees offer.

The proposed layout would therefore be contrary to Policy DE1 which promotes the integration of existing trees and landscape features into schemes for dwellings, Policy C1 (Countryside and the rural economy) which states that new development should protect, conserve or enhance the distinctive landscape characteristics and visual quality of a particular location, and Policy C4 (Trees, hedgerows and natural landscape features) which states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees.

There are two parking spaces below the proposed dwelling associated to it which

would meet the standards required by Policy TA3. However there appears to be insufficient space within the plot for bin storage and cycle parking. Conditions requiring further information to be submitted on these issues was part of the Outline consent and therefore if this application was deemed to be acceptable, these details would need to be submitted at a later date.

The Weary Ploughman public house, which is a Listed Building, is in excess of 50m away from the site. Given this distance it is considered that there would be no unreasonable amenity issues to this building as a result of the development of this site. The proposal would not be of detriment to the character or setting of the Listed Building and would therefore comply with Policy HE1 (Listed Buildings).

3. Impact on residential amenity

The proposed coach house complies with the internal floor area standards of Policy DE3 (Development amenity). However it would be above garages for up to 4 cars, 2 of which would belong to a separate unit within the site, there is also an area of hardstanding adjacent to the dwelling which appears to be for car parking. Without having control over the movement of vehicles from the half of the garage which would serve unit 8 and the parking area to the south, there is potential for the future occupiers of the dwelling to be detrimentally affected by noise and disturbance caused by vehicle movements. Furthermore, the need to provide the parking for unit 8 (the dwellings proposed by P/2018/0852) beneath unit 10 would appear to indicate that the proposal would be an overdevelopment of the site.

Policy DE3 has a guideline for garden sizes to be at least 55 square metres. The garden area for the dwelling appears to be located largely under or adjacent to the tree canopies of the protected trees which would not provide a good quality of external amenity space and is likely to lead to future pressure for works to these valuable trees.

Bearing these points in mind the proposal is deemed to be contrary to Policy DE3 of the Local Plan.

4. Other Considerations

Neighbourhood Plan

The Brixham Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The most relevant policies for this application are Policies BH3, BH4, BH5 & E7. These policies require development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings, to provide a good quality of residential environment and to retain and enhance the landscape character of the area. The proposal is not considered to comply with Policy E7 which aims to protect landscape

features such as the protected trees.

Ecology

This reserved matters application does not result in any further impact on ecology.

Transport and access

Access details have been approved prior to the submission of this application. Highways have advised that the turning area within the site is not in accordance with the Torbay Highway Design Guide. As such the internal road could not be adopted. However in this instance the applicant wishes for part of the internal road to be private.

S106

A section 106 agreement was completed as part of the Outline application (P/2015/0097).

Community Infrastructure Levy

As the Outline application was approved prior to the adoption of CIL, the legal agreement entered into above is the means for obtaining contributions in relation to the 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

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

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has attempted to work positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. However in this instance the applicant was unable to comply with Policies de1, DE3, C1 & C4 of the Local Plan and the Council has concluded that this application is not acceptable for planning approval.

Conclusions

The proposal is considered to be unacceptable, having regard to the Local Plan, and all other material considerations.

Reason(s) for Refusal

01. The siting and orientation of the proposed dwelling on the plot in close proximity to protected trees would cause overshadowing of the property and the external amenity area which would result in a poor standard of accommodation for the proposal's future occupiers, contrary to Policy DE3 of the Local Plan. The conflict that is likely to emerge between the protected trees and the proposal's occupiers is likely to result in pressure to lop or fell trees that are protected for their amenity value. The proposal is therefore contrary to policies DE1, DE3, of the Torbay Local Plan 2012-2030.
02. The ground floor parking layout and proximity of the external parking area to the south of the proposed dwelling has the potential to cause an unacceptable level of noise and disturbance which would cause harm to the amenity of the future occupiers of the proposed dwelling. Moreover, the need to provide parking for unit 8 in this location indicates that the proposal would lead to an overdevelopment of the site. The proposal is therefore contrary to Policies DE1 and DE3 of the Torbay Local Plan 2012-2030

Relevant Policies

DE1 - Design
DE3 - Development Amenity
TA2 - Development access
TA3 - Parking requirements
H1 - New housing on identified sites
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape

Application Number

P/2018/0852

Site Address

Land To Rear Of Broadway
Dartmouth Road
Brixham
TQ5 0LH

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Executive Summary

This is a Reserved Matters application seeking approval for the layout, appearance, scale, and landscaping of 9 dwellings. The site is within the Churston/Galmpton village envelope.

The submitted layout plan broadly follows the housing density and established urban grain of the villages of Churston and Galmpton. It is considered that the form, layout and design of the proposed development would be compatible with the appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to the Torbay Local Plan, and all other relevant material considerations.

Recommendation

Conditional approval, with final drafting of conditions to be delegated to the Assistant Director of Planning and Transport.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House (a Grade II Listed Building). Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south.

The site is within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding.

A Tree Preservation Order covers the eastern and northern boundaries of the site, these trees are considered to be important to the visual character of the area. The site area measures 0.27 hectares.

The site is located within the Churston/Galmpton Village Envelope in the Torbay Local Plan 2012-2030. This identifies it as an area which could provide

appropriate levels of housing provided that the development would be in keeping with the density and character of the area.

Detailed Proposals

This is a Reserved Matters application relating to the layout, design, scale and landscaping of 9 dwellings and associated development. The submitted layout plan shows five detached dwellings and two pairs of semi-detached dwellings.

The application shows the two-pairs of semi-detached houses employing render with natural slate roofs and windows and doors of differing colours to provide variety and reflecting the general village character of Churston.

The detached dwellings are shown as having natural slate roofs and windows and doors of differing colours with a mix of render and stone on the principal elevations.

With regards to landscaping, the proposal shows the retention of existing boundary landscaping features with the addition of a hedge between plots 1 and 2.

There are 20 parking spaces, including garages, for the 9 dwellings and a parking area located adjacent to the trees protected by a Tree Protection Order to the east of the site.

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

Natural England - No objection

SWW - No Objection

Highways - The Adopted Torbay Highway Design Guide policy states that developments of 5 dwellings and over on a new site should be encouraged to be adopted by the LHA, but to date the Developer has not contacted the LHA to prepare a section 38 Agreement with this Council.

The current layout does not show a suitable turning head that conforms with Today's Adoptable Standards.

If the Developer intends to adopt the access road then the proposals are contrary to the above policy.

Arboricultural Officer - No objection

Senior Historic Environment Officer - The proposal will not have a detrimental impact on the character or setting of the Grade II Listed Weary Ploughman.

Summary Of Representations

None

Relevant Planning History

P/2018/0837 - Reserved matters relating to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Tenth unit only. Under consideration.

P/2016/0772 - Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures. Approved 19.04.2017

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access) 30.06.2016

P/2015/0097 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 17.08.2015

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues / Material Considerations

The key issues are:

1. The Principle of the Proposed Development
2. Design and Scale
3. Layout and Impact on Residential Amenity
4. Impact on the Landscape Character

1. The Principle of the Proposed Development

The principle of residential use of the land for up to ten dwelling was established by the granting of outline planning permission, which related to access only, under planning reference P/2015/0097.

2. Character of the Area

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

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. This Policy states that design is a key component in the creation of a sense of place and of space. The Policy advises that development should be well designed, respecting and enhancing Torbay's special qualities. As previously stated the centres of Churston and Galmpton Villages consist of terraced cottages however the wider area encompassed by the Village Envelope has a varied character of design, dwelling forms and plot sizes.

The two storey detached and semi-detached scale of dwellings is considered to be contextually acceptable and in keeping with development in the Churston/Galmpton village area. The proposed design of the dwellings with pitched roofs, bay windows and attached garages would accord with the character of Churston/Galmpton village.

In the main, the external materials of dwellings within the village envelope consist of render and stone. The proposed dwellings are proposed to be finished in a mix of render along with render and stone with coloured UPVC timber effect doors and windows and natural slate roofs.

Bearing this in mind it is considered that in essence the proposed appearance and design, having regard to the form and materials, complies with Policy DE1 of the Torbay Local Plan. In order to ensure the quality of the design, it is considered that a condition requiring the approval of cladding materials is necessary.

The proposal would have a density of around 33 dwellings per hectare, which is

considered to be appropriate for the location, considering the character of existing development in the surrounding area. The proposed buildings, in terms of their scale and design, are considered to be broadly in keeping with the character of the area. The proposed development would incorporate adequate arrangements for amenity spaces, parking and manoeuvring areas, the storage of refuse, and the provision of landscaping.

As such, it would not result in an overdevelopment of the site and, in terms of its appearance, would be sufficiently sympathetic to its surroundings. As such, the proposal is in accordance with Policies H1, DE1, DE3 and TA3.

It is however considered that conditions requiring further details of boundary treatments, further detail of hard and soft landscaping and its implementation and the removal of permitted development rights for all extensions to the buildings and within the plots, including means of enclosures, should be added to any granting of planning permission. The addition of these conditions is considered necessary in order to ensure the development accords with the aforementioned policies in future.

The Weary Ploughman public house, which is a Listed Building, is in excess of 50 away from the site. Given this distance it is considered that there would be no unreasonable amenity issues to this building as a result of the development of this site. The proposal would not be of detriment to the character or setting of the Listed Building and would comply with Policy HE1 (Listed Buildings).

3. Amenity

Policy DE3 (Development amenity) requires developments to be designed to provide a good level of amenity for future occupiers as well as current occupiers in the surrounding area.

The proposed dwellings comply with the internal floor area standards set out in Policy DE3 of the Local Plan.

There is an existing B1/B2 use to the rear of units 6, 7, 8 & 9 (some 12-15m from the rear of the proposed dwellings and 5-6m from the rear garden boundary) which consists of a filling station and a garage which offers M.O.T.s. It is noted that there are existing residential dwellings in the immediate area adjacent to the site and to the south-east of the garage. Furthermore, a relationship of this sort, although likely to cause some noise and disturbance during working hours, is not considered to be unacceptable given the separation distances involved. Advice from the Council's Environmental Health department is that the impact of noise and disturbance is something that can be mitigated through appropriate boundary treatments.

The garage to unit 9 is approximately 10m from the rear of the existing dwelling "Broadway" to the east of the site and the side elevation of unit 9 is some 15m

from the main rear elevation of the aforementioned property. Although these units will be sited in close proximity to one another, the elevational treatment of unit 9 has been designed so as to limit any unacceptable overlooking. Given the distance and relationship between them, it is considered that there would not be any unacceptable harm to the amenities of the existing occupiers in terms of their privacy, outlook, and access to light, and likewise in relation to the proposal's future occupiers.

Policy DE3 has a guideline for garden sizes to be at least 55 square metres. The gardens of units 7 & 8 are approximately 40 square metres and therefore below the guideline figures. However there are areas of green open space within easy walking distance of the site. On balance the gardens provided would provide a useable and level area of external amenity space and are, in this instance, considered to comply with Policy DE3 despite being below the guideline size of 55 square metres.

The rear amenity spaces for units 2, 3 & 4 would be located in close proximity to the school changing room building to the rear. However the boundary of the west of the site consists of established hedges and trees which provide a degree of screening and mitigation. Units 2, 3 & 4 provide sufficient useable external amenity to comply with Policy DE3. The proximity and height of the school changing room building would not impact on the levels of natural light available to the rear elevations of units 2, 3 & 4. The external amenity areas of the other dwellings are considered to be acceptable.

It is considered that the proposed development would not result in unacceptable harm to existing occupiers in neighbouring dwellings. It is also considered that the proposed dwellings would provide a satisfactory standard of living accommodation and amenity space for the enjoyment of future occupiers. In terms of their relationships to one another, the proposed dwellings would not result in any unacceptable impacts in terms of the amenities of their future occupiers. Given its layout, scale, appearance, and landscaping, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

4. Impact on the Landscape Character

Policy C1 (Countryside and the rural economy) states that new development should protect, conserve or enhance the distinctive landscape characteristics and visual quality of a particular location.

The proposal shows the retention of the existing trees on the boundary with the Brixham Road, which are protected. A new hedge between the front and side boundaries of units 1 and 2 is proposed. Although the landscaping proposals are minimal, the landscape character of the area is considered to be retained given that the site is set back from the main road and is set down at a lower level than the Brixham Road. In addition to the aforementioned requirement for a landscaping condition, a condition requiring the submission of a Construction

Method Statement is deemed necessary to ensure the protection of the trees on the eastern boundary during construction of the adjacent parking area. On balance the proposal is deemed to comply with Policy C1.

Other Considerations -
Neighbourhood Plan

The Brixham Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The most relevant policies for this application are Policies BH3, BH4, BH5 & E7. These policies require development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings, to provide a good quality of residential environment and to retain and enhance the landscape character of the area. The proposal is considered to comply with these policies as the scale and bulk respect the characteristic of the Churston/Galmpton Villages and retain the landscaping features on the eastern boundary of the site. The proposal is therefore considered to accord with the Brixham Neighbourhood Plan Policy.

Drainage

This was assessed at the outline stage with appropriate conditions being imposed, which must be complied with.

Ecology

This reserved matters application does not result in any further impact on ecology.

Transport, access, and Parking

Access details have been approved prior to the submission of this application. Highways have advised that the turning area within the site is not in accordance with the Torbay Highway Design Guide. As such the internal road could not be adopted. However in this instance the applicant wishes for part of the internal road to be private.

The application provides 20 parking spaces for the development which is 2 per dwelling plus 2 visitor parking spaces. The proposal complies with the parking standards of Policy TA3 of the Local Plan. A condition requiring the implementation of the parking areas, prior to the occupation of the dwellings and the retention of those spaces in the future, is considered to be necessary in order to ensure the future compliance with this policy.

S106

A section 106 agreement was completed as part of the Outline application (P/2015/0097)

Community Infrastructure Levy

As the Outline application was approved prior to the adoption of CIL, the legal agreement entered into above is the means for obtaining contributions towards the 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

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

Proactive Working

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

Conclusions

The proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. No development above damp proof course level shall take place until

details of the proposed cladding materials (walls and roof) and openings, along with the proposed hard landscaping, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030

02. Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

03. Prior to occupation of the first dwelling on the site, details of acoustic fencing to the rear boundaries of plots 6-9 shall be submitted to the Council for approval in writing. The approved acoustic fencing shall be erected prior to the first occupation of the dwellings hereby approved and thereafter retained at all times.

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

04. To avoid any indirect damage to the protected roots of the tree group protected by a Tree Protection Order, during the construction of the parking arrangement adjacent to the trees (shown on plan referenced Proposed Layout 619-050 Rev F received 14.08.2018), a suitable construction method statement shall be submitted to the Council for approval. The approved method statement shall be implemented in full during construction.

Reason: In order to ensure no detrimental impact to the protected trees and in the interests of the amenities of the area and to accord with policy C1 of the Torbay Local Plan 2012-2030.

05. The dwellings hereby approved shall not be occupied or brought into use until the associated garages, parking spaces and manoeuvring areas detailed on the approved plans have been completed. These elements shall thereafter be retained for the life of the development.

Reason: In accordance with highway safety and amenity, and in

accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

06. Prior to any development above damp proof course level, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within six months of the development being brought into use, and shall be retained for the life of the development.

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E and Part 2 Class A, no enlargements, improvements or other alterations shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

Relevant Policies

- DE1 - Design
- DE3 - Development Amenity
- C1 - Countryside and the rural economy
- C4 - Trees, hedgerows and natural landscape
- TA2 - Development access
- TA3 - Parking requirements
- H1 - New housing on identified sites

Application Number

P/2018/0881

Site Address

South Devon Police Station
Southfield Road
Paignton
TQ3 2SP

Case Officer

Mr Scott Jones

Ward

Clifton With Maidenway

Executive Summary

This reserved matters application is for detailed consent for the layout, scale, appearance and landscaping for 36 apartments on the former site of Paignton Police Station, off Southfield Road. This follows the granting of outline permission for 46 apartments on the site under planning reference P/2017/1117, with detailed access approved.

The outline application was accompanied by conceptual design and landscape plans that established that the amount of development could be achieved on the site within a large singular L-shaped building, with accompanying parking adjacent and underground. This reserved matters application is consistent with the approach suggested at outline stage, except that the number of apartments is reduced and the building is one-storey lower than previously envisaged. In addition there is a reduction in the scale of under-croft parking, which results in more of the site being utilised for parking around the building than previously presented.

This application has been the subject of detailed negotiation between officers and the applicant to improve the layout and design of the scheme. The scheme has been improved and now provides what is considered to be a satisfactory scheme that respects the expectations that were presented to Members at outline stage.

The scheme is CIL Liable and will secure a CIL payment in excess of £265,000.

There remains a small number of minor outstanding matters in terms of the detailed layout and design, and officers have requested further consideration in terms of the cycle provision and the drainage design. Officers are confident that the 'overall' scheme can be progressed to a satisfactory standard in order to secure a building that would sit comfortably within the built environment and would provide an acceptable residential environment for future users and neighbouring occupiers.

Recommendation

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

- (i) Receipt of satisfactory surface water drainage details that prevent an increased risk of flooding of adjacent land or buildings;
- (ii) Receipt of revised plans that improve the current provision of cycle parking; and
- (iii) Conditions (in support of those imposed at outline stage), with the final drafting to be delegated to the Assistant Director of Planning and Transport.

Members will be updated on the status of these issues, however, if they remain unresolved on the date of the Committee meeting it is recommended that the satisfactory resolution of these matters be delegated to the Assistant Director of Planning and Transport.

Reason for Referral to Development Management Committee

The proposal is for Major development.

Statutory Determination Period

13 weeks, ending 24th January 2019.

Site Details

The application site is the former Paignton Police Station site located at the junction between Southfield Road and Blatchcombe Road in Paignton, a site that has recently had outline planning permission granted for 46 apartments.

The site has lain empty for a number of years following the cessation of the police use and the subsequent removal of the large L-shaped 3-4 storey former police station building. It now sits as a largely cleared site with an empty core, which is largely screened from public view by the retained hedge and tree-lined borders.

In terms of the site context, residential properties sit on higher land off Southfield Rise to the north; a residential property sits adjacent to the site to the west of off Blatchcombe Road; and highways border the site to the south and east.

Access to the site is presently off Southfield Road to the east and the outline consent approved a detailed access in this location to serve the proposed

residential development.

There are a number of listed buildings in the vicinity and 5 trees are protected by a Tree Preservation Order (TPO Reference 2012:021).

The site sits in a Critical Drainage Area and there is an identified linear flood risk area that follows Blatchcombe Road which spreads east towards lower land and the coast.

The site is identified as a committed and deliverable site for residential purposes in the Torbay Local Plan and Paragraph 6.146 of the referendum version of the Paignton Neighbourhood Plan states that "the former Paignton Police Station provides an opportunity for housing or employment redevelopment".

Detailed Proposals

This is a reserved matters application that is seeking approval for the layout, scale, appearance and landscaping for 36 apartments following the grant of outline consent for 46 apartments approved in outline under application referenced P/2017/1117. Vehicular access was approved in detail at outline stage and does not form part of this reserved matters consideration.

The submitted plans show 36 apartments set within a single building with 4 floors of residential accommodation together with a limited area of under-croft. Through revised plans received during the application process the under-croft has been increased in size to provide 11 car parking spaces and cycle storage, with waste storage relocated to a newly proposed curtilage building.

There is a mixture of 1 and 2 bed apartments, with eight 1-bed apartments and twenty-eight 2-bed apartments.

There is parking for 41 vehicles, with 30 spaces within a parking forecourt and 11, as detailed above, relocated under the building at lower ground floor level. The parking has been demarked as providing one space per apartment (36) with 5 visitor spaces, giving a total of 41 car parking spaces. There are 4 disabled spaces and 10 identified for electric charging. The western extent of the forecourt parking (final 12 spaces) transitions to a grasscrete finish with planted pergolas framing the parking spaces. A timber waste storage building is proposed adjacent to the parking area.

The reserved matters are generally aligned with the indicative drawings submitted at outline stage. The main divergence is that the scheme is for 10 fewer apartments to the number approved at outline stage and, principally as a result of this reduction, the proposal is also one storey less in height than indicatively shown at outline stage. In addition, the proposal provides less under-croft parking than shown at outline stage, which results in a larger proportion of

the site area being proposed for parking. Members should note that the initial submission excluded under-croft parking but officers have negotiated its reintroduction to reduce the pressure upon space around the building to improve the setting and amenity for occupants. Other than the elements stated above, the broad parameters of the scheme corresponds with the outline detail, including a large L-shaped building with a modern appearance that is set towards the back (north) of the plot, with a mixture of materials and numerous balconies.

The footprint closely follows the indicative footprint that was presented at outline stage, which itself closely followed the previous footprint of the police building. The length (east-west) of the building is 61 metres and the length of the "L" return (north-south) is 31 metres. The prevailing depth of the building from the front to the rear is approximately 12 metres throughout the L-shape.

The height of the building is approximately 12 metres, which is 3 metres less than indicatively shown at outline stage. The building steps down in height to the east near to the vehicular entrance, similar to the indicative treatment submitted at outline stage.

Cantilevered balconies and terraces provide private outdoor amenity space for most units, and there is a degree of communal amenity space to the west and also now to the south of the building following the submission of revised plans.

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

- Referendum version of the 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.

*The Paignton Neighbourhood Plan has recently completed its Independent

Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post examination neighbourhood plan.

Summary of Consultation Responses

Strategic Transport / Highways:

No objection as the reserved matters provide a similar ratio of parking to that accepted at outline stage and accords with the ratio of occupier and visitor parking that was subject to a condition of the grant of consent. It is noted that the detailed access was agreed at outline stage and therefore there are no highway safety comments necessary.

Safe and secure cycle parking on a 1:1 basis with some visitor capacity should be provided and the current provision appears deficient and should be improved to meet the Local Plan guidance level on the number of spaces, as outlined within Appendix F of the Local Plan.

Engineers:

The recent application identifies a greater impermeable area than was included within the surface water drainage design that was approved at outline stage due to the increase in car parking area.

As a result the developer should revise the surface water drainage design for this development based on the latest proposed impermeable areas.

The developer will need to demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. Therefore the developer must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above comments, before planning permission can be granted the applicant will need to supply details and designs for the entire surface water drainage system for this development in order to address the points raised

South West Water:

No objection.

Environment Agency:

No objection.

Natural Environment Services:

The revised landscape detail now contains sufficient information in terms of

planting and aftercare. The removal of the protected Norway Maple in the south-east corner of the site is accepted due to the broader landscape qualities of the site and agreement with the tree report in terms of this specimen's poor spatial arrangement with the adjacent building and the larger Lime to the south. The proposal is suitable for approval on arboricultural merit.

Historic Environment Officer:

There are a number of anomalies within the submitted plans. These aside, the general views show that some thought has gone into the disposition of the L-shaped block, in particular the east end of that block which has highly defined horizontal and vertical elements across all four floors, providing a pleasing variety to the building. The long west-east block is less engaging and the smaller L-shaped block appears the most modular element without the developed interest of the east end block and the east-facing projection. The major failure of the scheme across all categories: appearance, landscape, layout and scale is the positioning of the car parking, All 3D views show an area of unrelieved red paving, the outlook should be onto the soft landscaped areas.

Police Designing Out Crime Officer:

No particular concerns raised in terms of layout and design. Support the proposed removal of the under-croft parking and the level of proposed security that is proposed in the design and access statement. Retain concern on the level of parking proposed. Previous comments on the outline application remain relevant.

Summary of Representations

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

2 representations have been received objecting to the proposals, principally reiterating concerns raised at outline stage regarding;

- o Out of character
- o Highway and parking impacts
- o Loss of privacy

Relevant Planning History

P/2017/1117 - Outline application for 46no. new apartments with below ground parking with all matters reserved except for access (as revised by plans received 13.01.2018). Approved 26.09.2018. This permission was subject to a legal agreement.

Key Issues/Material Considerations

The key issues to consider are:

1. The Principle of Development,

2. Design and Visual Impact,
3. Residential Amenity,
4. Movement and Parking,
5. Landscaping,
6. Ecology
7. Flood Risk
8. Heritage Impact
9. Other Considerations

1. The Principle of Development

Outline consent was recently granted for 46 apartments on this site by the outline application approved by Members at the March 2018 Committee, an approval that was subject to a legal agreement and various conditions to secure an acceptable form of development (planning reference: P/2017/1117). The principle of residential use, delivered within a single large apartment building, was established by this outline application. This reserved matters application principally accords with the number of units granted outline consent and condition 17 of the permission, that the reserved matters shall propose no more than 46 residential units.

Subject to ensuring that the proposal provides adequate internal living environments, adequate parking and associated residential elements, such as waste and cycle storage, and amenity space, etc. in order to secure good quality living environments and retain adequate amenity levels for adjacent occupiers, the principle is considered acceptable.

In strategic policy terms the principle remains consistent with Policies SS11 (Sustainable Communities) which supports proposals that regenerate or lead to the improvement of social, economic or environmental conditions, SS12 (Housing) which supports the delivery of 8900 new homes in the plan period, SS13 (five year housing land supply), SDP1 which supports rejuvenation of Paignton, and H1 (Applications for new homes) of the Torbay Local Plan 2012-2030.

In terms of national policy guidance it is aligned with the National Planning Policy Framework (NPPF), which support a sustainable pattern of housing provision with an emphasis upon the regeneration of brownfield sites, town centre sites and urban sites such as this one.

The principle is also considered consistent with Policy PNP26 of the referendum version of the Paignton Neighbourhood Plan..

2. Design and Visual Impact

The proposal is for a single modern-styled L-shaped apartment building 61

metres long with a return that is 31 metres long. The prevailing depth of the building is approximately 12 metres from front to back.

In terms of scale and location the proposed building replicates the pre-existing massing of the police station building, which was a strategy that was supported through the earlier pre-application stage and the subsequent outline application. As the outline proposals responded to the ambition of delivering 46 units over 5 floors of accommodation the proposed building is lower than expected, at a height of approximately 12 metres rather than the 15 metres previously indicated at outline stage. The reduced height significantly reduces the bulk and massing of the building from what was envisaged, which will in turn reduce its prominence within the locality. The proposal steps down in height towards its eastern end as it approaches the entrance to the site, which helps reduce the building's massing as viewed from the proposed vehicular entrance. The height and massing is considered acceptable in the context of what previously sat on the site and what was indicated at outline stage to deliver the accommodation consented.

In terms of materials the building uses a number of treatments, which helps break down the massing and adds some interest to the building. There is a base elevation finish of white render, which is complemented by copper panels (or green coloured render) and treated western red cedar timber cladding (or terracotta render). Doors and windows are to be grey powder coated aluminium and the roof is to be grey single ply standing seam membrane. Balustrades have been improved since submission and are now frameless glass with slim aluminium handrails. 3D images have been submitted to aid visualisation.

In terms of the space around the building the detached bin store is proposed to be finished in untreated western red cedar. This is supported as it will help the building to blend in within its setting and relate more strongly to the adjacent landscape area and verdant border adjacent.

The parking forecourt has been reduced in size following concerns raised by officers over its dominance and harmful visual impact on the setting of the building. This has allowed more communal landscaped space to be reintroduced near to the main entrances, which has improved the proposal's setting and level of amenity. In addition, a section of the remaining parking courtyard has been finessed to soften its appearance and improve the quality of the central space at the heart of the site. Cedar framed planted pergolas over a grasscrete parking surface helps diminish the prominence of the proposed parking adjacent to the central core. The revised layout is now supported by officers and is more aligned with the concepts illustrated at outline stage.

Footpaths are proposed to be finished in granite block paving, and the remaining parking adjacent to the grasscrete area is a mix of granite block paving with bitmac to main entrance slope. Retaining walls are natural stone faced gabions. In combination these various curtilage finishes are considered appropriate and

will support the delivery of a suitably designed scheme.

The proposals are considered to be consistent with Policy DE1 of the Torbay Local Plan and advice contained within the NPPF in terms of securing good design.

3. Residential Amenity

Future Occupiers

There are 36 apartments, comprising eight 1-bed units and twenty-eight 2-bed units within the scheme. This mix of one and two bed apartments is considered satisfactory in the context of providing a mixed and balanced residential scheme, as the apartments would appear to provide opportunities for individual occupiers, young couples and small families, both young and old.

The size of apartments accord with the internal size standards outlined in support of Policy DE3 (Development amenity) of the Torbay Local Plan. In addition, key habitable rooms have sufficient outlooks to aid a good standard of living and provide natural lighting. Generally, the outlook of apartments within the scheme do not conflict, however where there is some degree of potential inter-visibility screening is proposed to adequately resolve this issue and ensure that an acceptable standard of privacy will be provided.

In terms of outdoor amenity space most units will benefit from either a terrace, a roof terrace, or a balcony, and communally there is useable lawn space to the south and west of the building. Policy DE3 of the Local Plan recommends that 10sqm of amenity space is provided per apartment and the provision is considered acceptable when considering the policy aspiration that seeks development to secure a good standard of living for future occupants.

Subject to securing necessary screening and its retention by planning condition the proposed residential environment is considered acceptable for all future users, and would accord with Policy DE3 in the Torbay Local Plan.

Adjacent Occupiers

The outline consent required, pursuant to Condition 2, the reserved matters to include design measures and landscape measures to prevent undue impact upon the amenities of neighbouring occupiers through overlooking and loss of privacy to the north and west.

The building is one storey lower than previously illustrated and the level of inter-visibility to the north is greatly diminished because of this, principally as the uppermost floor will be largely below the ground floors of adjacent properties where they are in closer proximity to the west. To the east the relationship is

more level, however, the distances between properties stretches and is beyond the 20 metre window-to-window distance that is generally considered as acceptable. Across the length of this border additional screening is proposed by a number of small-medium trees which will reduce inter-visibility. Considering the spatial relationship and proposed planting, the amenity of occupiers is considered to be protected in accordance with Policy DE3 of the Torbay Local Plan.

To the west, the submitted reserved matters respect the premise illustrated at outline stage that the building would principally be set in-line with the building line of the old police building. This ensures the building does not sit too close and present an overbearing structure in terms of the bungalow plot adjacent. In terms of design measures the reserved matters has also duly evolved the western elevation from the generic form shown at outline stage to a more bespoke design solution in order to limit overlooking and protect privacy. High landscape windows and oblique directional windows now limit the number of opening and this fenestration and limited inset balconies, together with the border planting and separation distances, is considered to provide an acceptable relationship that protects the adjacent occupiers amenity, in-line with Policy DE3 of the Torbay Local Plan.

4. Movement and Parking

Movement

The vehicular access was approved in detail at outline stage and hence the development, in respect of how it connects to the wider highway network, is not a subject for consideration for this reserved matters application.

In terms of vehicular movement within the site the layout provides adequate manoeuvring space for vehicles to access parking areas and manoeuvre into and out of individual spaces.

In terms of pedestrian movement there are clearly defined walkways from the parking areas to the main entrances. There is also a secondary pedestrian access to the site from the south in support of the main entrance to the east, which provides a good level of connectivity in terms of general pedestrian movements into and out of the site.

Movement within the building is by way of stairs and lifts, which will provide good access to all apartments and present a good access arrangement for less abled persons.

The proposals are considered to present an acceptable layout in terms of movement, in accordance with Policy DE1 of the Torbay Local Plan.

Car and Cycle Parking

Condition 3 of the outline consent required the reserved matters to include the provision of parking at a ratio of one per residential unit, plus additional provision of visitor spaces at a ratio of no less than 0.13 spaces per flat. This equated to 52 car parking spaces for 46 units. It also reiterated the policy expectation for 10% of the spaces to be designed to the disabled parking and 20% of the spaces to be provided with electrical charging points.

The reserved matters proposes 41 spaces for 36 units, this aligns with the requirements outlined in Condition 3 in terms of there being 1:1 parking and additional visitor parking at a ratio of 0.13 per flat.

The proposal also includes 4 disabled spaces and 10 electric charging points, which accord with the 10% and 20% policy expectation cited in the condition. The level and form of parking is therefore considered acceptable.

Condition 4 of the outline consent required the reserved matters to include the detailed provision of covered, safe and secure cycle parking to a ratio of no less than one per residential unit, and to include a detailed design of any proposed storage mechanism (such as racks or hoops). It also required the reserved matters to provide for adequate additional secure visitor cycle facilities. The submitted plans detail cycle parking within the under-croft, however the space does not appear sufficient in order to secure parking for 36 cycles. Discussions are ongoing in order to ensure 36 cycle parking spaces can be delivered within the scheme and members will be updated. Visitor spacing has now been identified within a prominent and overlooked area which is considered acceptable.

Subject to some minor clarification and improvements the cycle parking provision and arrangement, the facilities are considered policy compliant and suitable for approval in-line with Policy TA3 of the Torbay Local Plan.

5. Landscaping

The proposals accord with the landscape strategy shown at outline stage, with the retention and strengthening of the verdant borders in order to help screen and soften the building within the wider townscape, which is supported. The proposal retains 4 of the 5 trees protected under a Tree Preservation Order.

Following the receipt of revised plans the Council's Natural Environment officer is supportive of the scheme in terms of the proposed landscape detail, and the supporting planting and maintenance detail. The removal of the Norway Maple, which is protected by a TPO, is accepted due to the positive planting proposals and also due to agreement with the submitted Tree Report in terms of the specimen having a somewhat undesirable relationship with the nearby bungalow and its close proximity to the larger Lime tree, which is also protected under a TPO.

The landscape proposals are considered acceptable where they retain important trees and propose planting enhancements around the perimeter of the site, and afford due softening of the communal grounds within the site. The landscape proposals are considered compliant with Policies DE1 and C4 of the Torbay Local Plan.

6. Ecology:

The ecological context was duly considered when consent was granted in outline for 46 apartments and the outline consent was subject to an Construction and Ecological Management Plan condition to ensure due protection is afforded ecological features and protected species during the construction phase. In addition the consent was also subject to a Landscape and Ecological Management Plan condition to ensure that the operational phase also duly considers the ecological features over time.

No further ecological consideration is considered necessary as part of this reserved matters application, as the previous outlines conditions ensure the development accords with Policy NC1 of the Torbay Local Plan.

7. Flood Risk

Flood risk was duly considered in detail at outline stage and the outline consent was subject to a compliance condition with the surface water management system that was proposed and agreed. This previous level of detail was necessary as the site sits within a Critical Drainage Area as designated by the Environment Agency.

Notwithstanding the previous design detail the reserved matters propose a slightly larger area of parking than previously envisaged and therefore the application is supported by a revised and updated flood risk assessment and surface water drainage design strategy.

The Councils Drainage Engineer has reviewed the flood risk assessment and drainage strategy and there is concern that the detailed design elements have not been duly redesigned to account for the additional area of parking, albeit that this has reduced in size through the course of the application.

The Environment Agency have not offered comment on the proposal.

Members will be updated on this matter.

Subject to the receipt of acceptable detail the proposal is acceptable on flood risk and surface water drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

8. Heritage Impacts

A number of listed buildings sit in close proximity to the site and consideration on the impact of the setting of these buildings is necessary, in accordance with the statutory duty as required under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they possess. Policy HE1 (Listed buildings) of the Torbay Local Plan iterates this statutory requirement as a development plan consideration.

The Council's Heritage Officer has considered the proposals and has raised no objection in terms of any expected harm to the setting of the various listed buildings adjacent.

In light of the specialist local conservation advice the proposal is considered acceptable on heritage grounds, in accordance with the aims and objectives of Policy HE1 of the Torbay Local Plan.

9. Other Considerations

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policies for this application are Policy PNP1 (Area wide) and Policy PNP26 (Clifton with Maidenway). PNP1 provides policy guidance on design principles (PNP1(c) and residential development (PNP1(d)) and in-light of the conclusions outlined on Key Issues / Material Considerations 1-8 above the proposals are considered broadly compliant with this policy. PNP26 states that developments will be supported where they a) retain and improve existing community facilities; b) enable the provision of a community centre to be achieved; c) protect and enhance existing landscape features; d) make use of opportunities to improve the range and quality of housing provision. The proposal is considered to comply with this policy where there is relevance to protecting landscape features and improving the range and quality of housing provision, on a site that is identified (Para 6.146). The proposal is therefore considered to accord with the Paignton Neighbourhood Plan.

Human Rights and Equalities Issues -

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

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

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

S106/CIL and Affordable Housing and CIL

A S106 agreement for this site was agreed under application reference P/2017/0117/MOA. No further legal agreement is required.

Affordable Housing:

Affordable housing provision/contribution required from this development in accordance with Policy H2 of the Torbay Local Plan 2012-2030 was assessed at outline stage. The outline application was subject to a viability assessment and the outline permission is subject to a legal agreement that will secure affordable housing provision/payment where it is found to be viable.

S106:

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

CIL:

The application is for residential development in Zone 2 where the Community Infrastructure Levy (CIL) is £70 per square metre of additional gross internal floor area created. The site is absent of buildings and hence the gross internal area in lawful use immediately preceding this grant of planning permission is zero. The application is supported by a CIL liability form that states that the proposal has 3797sqm of liable floor space.

The floor space equates to a CIL liability of £265,790.

EIA/HRA

EIA

Initially assessed at outline stage, due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA

Initially assessed at outline stage, the application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

The proposal presents a controlled discharge that mimics greenfield runoff rates into the Public Sewer, which will minimise impacts upon outfall flows and any potential impact up the marine candidate SAC, in-line with Policy ER2.

Proactive Working

In accordance with the guidance contained in the NPPF the Council has worked in a positive and pro-active way and has secured improvements to the scheme through revised plans, and concludes that the application is acceptable for planning approval with imposed conditions to enable the grant of planning permission.

Conclusions

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

The proposed development largely accords with the outline consent with matters of drainage and cycle parking requiring some updating and finessing rather than substantial change. It is expected that this information will be received prior to the Committee meeting.

Subject to satisfactory resolution of outstanding matters the reserved matters detail is considered suitable for planning approval, as it would be aligned with the outline detail previously considered by the Authority, and accord with relevant Local Plan policy guidance, notably Policies H1 (Applications for new homes), DE1 (Design), DE3 (Amenity), TA3 (Parking requirements), C4 (Trees, hedgerows and natural landscape features), SS11 (Sustainable communities) and SS3 (Presumption in favour of sustainable development).

Limited conditions are necessary where they relate directly to the reserved matters. The drafting of any necessary conditions required to support those imposed at outline stage is requested to be delegated to the Assistant Director of Planning and Transport.

Condition(s)/Reason(s)

01. Prior to the development above damp proof course level, a full external material schedule to include details of colour, form and texture and where requested by the Local Planning Authority, samples of materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the area in accordance with policy DE1 of the Torbay Local Plan 2012-2030.

02. Prior to the commencement of the development above damp proof course, full details of hard landscape works shall be submitted to and approved in writing by the Local Planning Authority. Details of hard landscape works shall include all means of enclosure, retaining structures, boundary and surface treatments, including finished levels. The hard landscape works shall be completed in accordance with the approved details prior to the occupation of the development.

Reason: To ensure a suitable access and parking provision is available to serve the development and in the interests of visual amenity in accordance with policies TA1, TA2, TA3 and DE1 of the Torbay Local Plan 2012-2030.

03. Prior to the commencement of development, the Tree Protection Measures, as outlined within the plan referenced 04858 TPP Rev B, shall be implemented in full and maintained at all times thereafter throughout the construction phase of the development.

Reason: To secure adequate protection for retained ecological features, in the interests of visual amenity in accordance with policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030. These measures are required pre-commencement to ensure against potential harm from construction activities.

04. The approved landscaping, as detailed within the plans referenced 542-01C and 542-02, shall be implemented in full prior to the first occupation of the development, or within the first available planting season following the substantive conclusion of construction activities, whichever is sooner. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously

damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

Reason: To secure suitable landscaping to support the residential development hereby approved, in the interests of amenity in accordance with policies DE1, DE3 and C4 of the Torbay Local Plan 2012-2030.

05. Prior to the first occupation of the building, a schedule of all privacy screens shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include a plan identifying the location of all privacy screens and details on the form and level of obscenity. The development shall proceed in full accordance with the approved detail prior to the first occupation of the building and all screening shall be maintained in full at all times thereafter.

Reason: To secure suitable living environments for future occupiers, in accordance with Policy DE3 of the Torbay Local Plan.

Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
H1LFS - Applications for new homes_
DE1 - Design
DE3 - Development Amenity
HE1 - Listed Buildings
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity_
TA3 - Parking requirements
ER1 - Flood Risk
ER2 - Water Management

Application Number

P/2018/1104

Site Address

Shop Unit
159 Winner Street
Paignton
TQ3 3BP

Case Officer

Miss Emily Elliott

Ward

Roundham With Hyde

Executive Summary/Key Outcomes

The application proposes a change of use on the ground floor of 159 Winner Street, Paignton, from a retail unit to a one-bedroom apartment.

The proposal is considered to be contrary to Policies DE1 (Design), DE3 (Development Amenity) and SS10 (Conservation and the Historic Environment), of the adopted Torbay Local Plan 2012-2030 and is therefore recommended for refusal.

Recommendation

Refusal.

Reason for Referral to Development Management Committee

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

Statutory Determination Period

14th January 2019.

Site Details

The application site comprises a mid-terrace three-storey building, located at 159 Winner Street, Paignton. The building includes a mid-twentieth century shopfront, which provides a highly visible focal point at Winner Street's junction with Church Street in Paignton.

The site is located within the designated Old Paignton Conservation Area and is a Grade II Listed Building. There are a number of Grade II Listed Buildings within the immediate vicinity of the site. The site is not located within Paignton Town Centre, however it is in close proximity.

Detailed Proposals

The application proposes a change of use on the ground floor of 159 Winner Street, Paignton, from a retail unit to a one-bedroom residential apartment. The proposal includes a bedroom, a bathroom and a living area which includes a kitchen. The proposal also includes external alterations to the Grade II Listed Building. It should be noted that the proposed works would also require Listed Building Consent, however this has not been requested by officers due to the unfavourable recommendation.

The external alterations to the proposal include the removal of the shop frontage which served as a former bookshop, to be replaced with a window and a grey composite door set back into a recess within the principal elevation.

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

Senior Conservation and Design Officer - Objects to the application. This is a listed building (NHLE No. 1208561) in the Old Paignton conservation area, but there is no LB application for this site. The mid-20C shopfront is not unattractive, providing a highly visible focal point at Winner Street's junction with Church Street, and some visual variety to the otherwise plain fronts of this line of 18C listed buildings (all on medieval foundations and perhaps retaining medieval fabric) Nos 159-171. While the conversion is a matter for planning, I would not recommend the removal of the shop front here; the list description states that the interior of 159 has been altered for shop use; though it does not extend to further comment there is no reason to suppose the interior is poor quality. The poor plan of the interior (dwg 18106- AL(4-)01 rev A) gives no indication of what is actually there. As Nos 159-161 are listed together, I note that there is a satellite dish on the façade, but more importantly the ground floor window which is listed as

timber single pane sash has been replaced by a fixed uPVC window. The loss of the shopfront would be detrimental to the listed building, contrary to S 66 of the LBCA Act 1990 where the local planning authority is enjoined to have special regard to the desirability of preserving listed buildings or their settings, including features of special architectural or historic interest.

Drainage Engineer: The development is located in Flood Zone 1, is not in an area susceptible to surface water flooding and relates only to a change of use, I have no objections on drainage grounds to planning permission being granted.

Senior Environmental Health Officer: With reference to the above application the flat seems very small. As such, I do have concerns regarding provision for both the internal and external arrangements for the storage of household waste. Developers and architects often see this as an afterthought, but as a department we receive many complaints regarding the problems associated with the inappropriate storage of waste containers on the highway and the public health issues that they cause. Furthermore, in Torbay we try to encourage the separation and recycling of household waste and without adequate provision for storage it is difficult for householders to sort, store and present their waste for collection. As such I would object to this application in its present form, and would suggest the developer follows the guidance contained in document H6 of the Building Regulations with regards to waste storage capacity.

Summary of Representations

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

Relevant Planning History

P/1984/1554: Use As A Café. Withdrawn 21/05/1985.

P/1984/3316: Use As Antiquarian/Bookshop. Approved 14/02/1985.

P/1985/0139: Altns.To Shop Fascia. Approved 07/03/1985.

Key Issues/Material Considerations

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

1. Principle of Development
1. Visual amenity
2. Residential amenity
3. Highways
4. Flood risk
5. Other considerations

1. Principle of Development?

The proposal is for a change of use on the ground floor from a retail unit to a one bedroom apartment. Being located within the built up area, a dwelling is

considered to be in accordance with Policy H1 of the Local Plan, and acceptable is in principle.

1. Visual amenity

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. 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.

The proposal seeks to replace the mid-twentieth century shop frontage with a new entrance door and proposed bedroom window, with an infill structure to be finished in white render with a black plinth. It is considered the frontage for the proposed residential apartment would not integrate well with or respect the character of the existing streetscape, contrary to Policy DE1 of the Local Plan.

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 Council's Conservation Officer objects to the removal of the shop frontage. It is considered that the loss of the shopfront would be detrimental to the character of the listed building, contrary to S66 of the LBCA Act 1990 where the local planning authority is enjoined to have special regard to the desirability of preserving listed buildings or their settings, including features of special architectural or historic interest. Listed building consent is required for the works proposed, although no such application has been received.

It is considered that the proposal would result in substantial harm to the character of the listed building, and less than substantial harm to the character of the conservation area. Given the poor standard of accommodation being proposed, it is considered that public benefits outweighing the identified harm have not been demonstrated in this case.

Therefore, the proposal is considered to be contrary to Policies DE1, HE1, and SS10 of the Local Plan, and the guidance contained in the NPPF.

2. Residential amenity

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

The proposed one bedroom apartment has an internal floor area of

approximately 22 square metres. It includes a living area with kitchen, a bathroom and a bedroom. Table 23 of the Local Plan sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard. For a one-bedroom apartment, the minimum gross internal floorspace area is 37 square metres where there is a shower instead of a bath in the bathroom. The proposed one bedroom apartment falls significantly below the required minimum gross internal area raising a concern with the quality of accommodation provided. Policy DE3 of the Local Plan also states that apartments should provide 10 square metres of outdoor amenity space, the proposal does not include any outdoor amenity space. The proposal would result in an unacceptable residential environment for the future occupiers contrary to Policy DE3 of the Local Plan.

Furthermore, a concern is raised with regard to the poor internal environment the proposal offers due to lack of outlook and light. The proposed floorplan shows the bedroom as having a window which would front the public footway and the living area including the kitchen will not have a window, only the front door. The living area would have limited outlook and light. The one proposed window for the bedroom would offer limited privacy, due to the building immediately abutting the public footway and not benefitting from a front garden to protect the future occupiers from potential overlooking, noise and disturbance from passers-by.

It is also noted that there appears to be no provision for the storage of refuse and recycling.

It is considered that the proposal would provide a poor standard of accommodation for future occupiers and it is therefore contrary to Policy DE3 of the Local Plan.

3. Highways

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development.

The proposal would not include any parking spaces but is located in relatively close proximity to good public transportation links, central car park, and local amenities. The site is deemed to be in a sustainable location and therefore does not require a parking space.

In terms of its impact on highway safety and amenity, the proposal is considered to be acceptable.

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 and is accompanied by a Flood Risk Assessment. 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

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policy for this application is Policies PNP1(c) Design Principles and PNP11 Old Town. Policy PNP1(c) states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

Policy PNP11 states that subject to other policies of the Neighbourhood Plan, improvements of the area will be supported that better the function, amenity and public enjoyment by design detail that will retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and appearance of the area having regard to Policy PNP1(c). Policy PNP11 goes on to state that where possible historic features such as building lines, window patterns and material should be reinstated. The proposal seeks to remove the shop frontage of the Grade II Listed Building and does not seek to preserve or restore any historic features of the building, the proposal is therefore contrary to Policy PNP11. The proposal is therefore considered to be contrary to the Paignton 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 unacceptable, having regard to the adopted Torbay Local Plan 2012-2030, and all other material considerations.

Condition(s)/Reason(s)

01. The proposed development would provide a poor quality residential environment by reason of the area of internal living space that would be available to future occupiers, which is below that required by Policy DE3 of the Torbay Local Plan. Moreover, given the lack of windows to the habitable rooms, the proposal would not provide the future occupiers of the apartment with adequate levels of outlook and light. The proposed window for the bedroom would also result in an inadequate level of privacy given its location along the street front. Being located adjacent to the public footway occupants of the proposed dwelling may also suffer from noise and other disturbance, given the positioning of the bedroom window. Moreover, there is an absence of adequate refuse storage. In light of these deficiencies, it is considered that the proposal would result in an inadequate standard of living accommodation, contrary to Policy DE3 of the Torbay Local Plan.

02. The frontage for the proposed residential apartment would not integrate

well with or respect the character of the existing streetscape, and is therefore considered to be detrimental to the character and appearance of the street scene and the Old Paignton Conservation Area. It is considered that the proposal would result in less than substantial harm to this heritage asset, and public benefits that outweigh this harm have not been demonstrated in this case. It is also considered that the proposal would result in substantial harm to the character of the host building, which is a listed building. As such, the proposal is considered to be contrary to Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan and the guidance contained within the National Planning Policy Framework.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

SS10 - Conservation and Historic Environment

ER1 - Flood Risk

TA2 - Development Access

TA3 - Parking Requirements

Application Number

P/2018/1113

Site Address

MyPLace
Parkfield
Colin Road
Paignton
TQ3 2NR

Case Officer

Ben Gilpin

Ward

Preston

Executive Summary/Key Outcomes

This planning application seeks planning permission for the change of use from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. There would be no increase in impermeable built footprint at the site.

The proposal is considered to be acceptable in this location and without any overriding detriment to the character or appearance of the locality. Consequently, the proposal meets Local Plan policy requirements.

Recommendation

Approval.

Reason for Referral to Development Management Committee

As the proposed development is on land owned by Torbay Council, and the application has received one objection, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

02.01.2019

Site Details

The site is a large purpose-built community building in D2 use.

To the west of the site is an outdoor activity area (including BMX cycle track). To the north is a car park. To the east are residential properties. To the south are

parkland gardens and a building accommodating the Integrated Youth Support Service for Torbay.

The south eastern corner of the building falls within the Polsham Park Conservation Area (CA). Within the red line site area as submitted is a Grade II Listed Building (identified as a garden house to the north of Parkfield). The proposed development does not include works to the Listed Building.

The site is in the settlement boundary and has no other statutory designation constraints.

Detailed Proposals

The application seeks planning permission for the change of use of an existing building from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. The external works would include the installation of a doorway, and fencing with the creation of a dedicated garden area, along with the installation of a new bin store. There would be no increase in impermeable built footprint at the site.

The submission does not detail finishing materials.

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

Torbay Community Safety:

"I would confirm that I have no objections to this being approved."

Torbay Drainage:

“As the development is located in Flood Zone 1 and the development is a change of use to an existing building that will result in no increased impermeable area, I have no objections on drainage grounds to planning permission being granted.”

Torbay Highways

‘No comments received’

Historic England

‘No comments received’

Summary Of Representations

1 x letter of objection received citing:

- Drainage;
- Impact on local area;
- Noise;
- Privacy / overlooking;
- Traffic / Access

Relevant Planning History

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

P/2017/0121 – Relocation of Torbay School to MyPlace, Parkfield. Alterations to MyPlace, Parkfield and construction of new single storey extensions to rear for Torbay School. REFUSED 12.05.2017

Key Issues/Material Considerations

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

1. Principle of Development
1. Visual Impact / Impact on Nearby Heritage Assets
3. Development Amenity
4. Flood Risk

5. Other Considerations (Ecology / Highways)

1. Principle of Development

The application seeks planning permission for the change of use from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. There are no Local Plan policies indicating that the proposal would not be acceptable in principle.

2. Visual Impact / Impact on Nearby Heritage Assets

The National Planning Policy Framework (NPPF) states that that design should underpin decision making is to secure high quality design. In addition, the NPPF also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. 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 of the Torbay Local Plan seeks to ensure developments would maintain the character of a conservation area, and where possible enhance that character.

The objection received suggests the development would result in a change in character. The development seeks a change of use, with only small physical changes (no increase in the built footprint).

The proposal would result in the material change of use of an existing building and would include some very modest external works that would not significantly alter the character or appearance of the site. Given its siting, scale, and design, and that the site is within the settlement boundary and viewed in its urban context, it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality.

In relation to the setting of the listed building and character of the conservation area, it is considered that the proposed changes would not result in any harm given the existing situation.

The proposal is considered to be in accordance with Policies DE1, HE1, and SS10 of the Local Plan, and the guidance contained in the NPPF.

3. Development Amenity

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

The objection received suggests the change of use would result in a loss of privacy and the generation of noise. The development would only change the use

and would not have a built footprint or windows nearer the complainant's property (11B Marine Drive), so negating perceived loss of privacy. The part of the site to be used as a dedicated garden area is already an outdoor space serving the existing youth centre use.

The proposal, in terms of the material external alterations and the change to a mixed use, would not result in overlooking or a loss of privacy to neighbours, principally because of the contained nature of the development.

The use of the site for educational purposes would by its nature be constrained to core school areas, ensuring the neighbouring uses are not exposed to excessive or unacceptable noise from pupils.

Furthermore, and in the interests of neighbouring amenity, the use of the garden area proposed can be restricted by planning condition (as proposed in this instance). The limiting of use to core hours (08.00 – 18.00 Mondays to Fridays) would allow for use of the garden to the benefit of students, but also ensure the balance is struck with neighbours retaining evening and weekend amenity.

With regards the 2017 planning application that was refused, the proposed development in this instance does not propose physical changes to the building, bar the insertion of a door on the eastern elevation. This ensures the reasons for refusal of the 2017 planning application are addressed in that it cannot qualify as poor design, would not increase flood risk and would not be nearer to neighbouring properties than at present.

Subject to the use of this condition, it is considered that the proposal would not result in unacceptable harm to neighbouring amenity and, as such, it is in accordance with Policy DE3 of the Local Plan.

4. Flood risk

Policy ER1 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 proposal would not increase the impermeable built footprint at the site. The Torbay Drainage Matrix states there would be no objection on drainage grounds and would not require the inclusion of drainage planning condition.

The proposal is therefore considered to be in accordance with Policy ER1.

5. Other Considerations

Ecology

The planning application is supported by a Preliminary ecological Appraisal (PEA). The PEA does not identified habitat suitable for protected species and limited evidence of protected species on site.

However, the PEA does suggest works be carried out in accordance with the Conservation Action Statement (CAS) as referenced. In this instance it is considered pertinent and reasonable for all works as approved to be carried out in accordance with the practical mitigation as detailed in the CAS. This can be secured by way of a planning condition.

Trees

The proposal has been supported by a tree constraints plan but it is not explicit in terms of the works required to the trees identified. In this instance the trees identified are considered important and do contribute to the character of the area (and the setting of the listed building).

The supporting document reference 'Q-4307.16 V2' suggests that an Arboricultural Impact Assessment (AIA); Arboricultural Method Statement (AMS); and Tree Protection Plan (TPP) would be required post planning.

In this instance, knowing the sensitivity of the site, the benefit the trees bring and the contribution they make to the character of the area, it is considered appropriate that any planning permission requires the submission of the AIA, AMS and TPP to the LPA for prior approval. This can be secured by way of a planning condition.

Highways

The objection has suggested that the development would be to the detriment of highway safety. In this instance Torbay Highways have not made comments on the proposal.

The proposed change of use is unlikely to give rise to any significant change in terms of vehicle movements to and from the site, and the need for parking spaces. Nevertheless, the proposal is supported by a Travel Plan that can be secured by way of planning condition.

Knowing this it is considered the proposal would accord with Policies TA1, TA2 and TA3 of the Torbay Local Plan.

Neighbourhood Plan

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

The Paignton Neighbourhood Plan has recently completed its Independent

Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policy for this application PNP1(C) (Design Principles) The proposal complies with Policy DE1 of the Local Plan and therefore complies with Policy PNP1(C) of the Paignton Neighbourhood Plan.

The proposal is therefore considered to be comply with the Paignton 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 proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. Prior to the commencement of the development hereby permitted, an Arboricultural Impact Assessment (AIA); Arboricultural Method Statement (AMS); and Tree Protection Plan (TPP) shall be submitted to, and approved in writing by, the Local Planning Authority. The AIA / AMS / TPP shall relate to trees within the red line boundary ('the site') as detailed on drawing number 3338-05 (dated 01.10.2018).

Reason: In the interests of amenity and setting of heritage assets, in accordance with Policies DE3 and SS10 of the Torbay Local Plan.

02. Other than for maintenance, the use of the garden area hereby approved in association with the D1 use, shall only be used between the hours of 08.00 to 18.00 Mondays to Fridays, with no use outside of these hours, or on Weekends or Bank/Public Holidays.

Reason: In the interests of maintaining acceptable levels of amenity for residents to the east, and in accordance with Policy DE3 of the Torbay Local Plan.

03. All of the works hereby approved are to be carried out in accordance with the mitigation measures detailed in the Conservation Action Statement (CAS) of the Preliminary Ecological Appraisal (Acord Ecology – dated 30.09.2016).

Reason: In the interests of protected species and in accordance with policies NC1 and SS8 of the Torbay Local Plan.

04. The development hereby approved shall be undertaken in accordance with the Travel Plan (reference: P2018-1113-11 (dated 01.10.2018)) as submitted that outlines measures to encourage non-car, sustainable forms of transportation, including a scheme of implementation.

Reason: In the interests of sustainable development and in accordance with the guidance contained in the National Planning Policy Framework.

Informative(s)

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

Relevant Policies

- DE1 – Design
- SS10 – Conservation and Historic Environment
- SS3 – Presumption in Favour of Sustainable Development
- DE3 – Development Amenity
- ER1 – Flood Risk
- TA2 – Development Access
- TA3 – Parking Requirements
- SC3 – Education, Skills and Local Labour