



Friday, 1 February 2019

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 11 February 2019

commencing at **2.00 pm**

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

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor Lewis (B)
Councillor Morey
Councillor Pentney

Councillor Tolchard
Councillor Winfield
Liberal Democrat Vacancy
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**

To confirm as a correct record the Minutes of the meeting of this Committee held on 14 January 2019

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. **Land North of Totnes Road, Collaton St Mary Paignton P/2017/1304**

(Pages 4 - 37)

Re-advertisement: Up to 94 dwellings (reduced from 97), associated landscaping, access and infrastructure.

7. **Land to The Rear of 190 Northfields Lane, Brixham P/2018/1009**

(Pages 38 - 56)

Construction of two detached dwellings each with integral double garage garden areas.

- 8. Former Torwood Conservative Club, 28 Parkill Road, Torquay P/2018/1118** (Pages 57 - 65)

The application proposes to demolish a section of the building to facilitate formation of an off-road parking space.
- 9. Former Torwood Conservative Club, 28 Parkhill Road, Torquay P/2018/1119** (Pages 66 - 72)

Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18).
- 10. Curtilage Of 1 Laura Grove, Paignton P/2018/1136** (Pages 73 - 85)

To form a detached, two-storey dwelling with an integral garage at the curtilage of 1 Laura Grove, Paignton.
- 11. Ormonde Cottage, 15 Newton Road, Torquay P/2018/1213** (Pages 86 - 105)

To provide twelve 2 bedroom dwellings, arranged in three mini-terraces.
- 12. Roselands County Primary School, Lynmouth Avenue, Paignton P/2018/1214** (Pages 106 - 115)

The formation of a new entrance block for both staff and pupils of Ros County Primary School.
- 13. Suite Dreams Country Hotel, Steep Hill, Torquay P/2018/1216** (Pages 116 - 129)

Conversion of existing hotel into 10 self-contained apartments, including an increase in ridge level of 400mm, and demolition of rear extension.

Application Number

P/2017/1304

Site Address

Land North Of Totnes Road
Collaton St Mary
Paignton

Case Officer

Mr Scott Jones

Ward

Blatchcombe

Description

Re-advertisement: Up to 94 dwellings (reduced from 97), associated landscaping, access and infrastructure (as revised by plans submitted 04.12.2018)

Executive Summary

This application is submitted in full for the construction of 94 dwellings with areas of public open space (including a play area) and balancing ponds, and a new vehicular access, as revised by plans received 4th December 2018.

The site forms part of a wider field and site that was subject to two previous planning applications for residential development in 2012 and 2013 (192 units and 175 units) whilst the site was unallocated under the previous Local Plan (1995-2011). These applications were both refused on grounds of principle and also due to various other material issues such as design, landscape impact, ecological concerns and flood risk.

The site is now allocated for development in the new Local Plan (2012-2030) as part of a wider Future Growth Area. There is an Adopted Masterplan for the area which identifies housing on the site and illustrates the provision of around 40-45 units. As such the principle of residential development is generally supported. Policy PNP24 of the Paignton Neighbourhood Plan also applies to the site.

Although the principle of residential development is supported the application is considered unsuitable in its' current form, notwithstanding extended negotiations with the applicant in order to try and resolve principal issues of concern.

The proposal is considered to present an overtly incongruous suburban development that relates poorly to the rural context, which will impact the character of the area, the wider landscape, and the setting of the nearby Grade 2* rural Parish Church of St Mary. In addition the development is considered to present a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy. There are also highway safety concerns due to the lack of connectivity with the wider area and due to the detailed design of the internal highway network, where there is inconsistency with Torbay's detailed highway standards. There are further unresolved concerns on the risk of flooding.

Although the site sits in a sensitive bat flightpath associated with the Greater

Horseshoe Bats and South Hams SAC there are no ecological issues that should prevent the grant of permission, subject to achieving the identified mitigation and subject to Natural England's consultation response to the draft Habitat Regulations Assessment

It is concluded that due to the level of harm to the setting of the Grade2* listed Church of St Mary, together with the level of conflict with policies within the Local Plan, the NPPF, and the Referendum Version of the Paignton Neighbourhood Plan, the proposal is not considered acceptable on planning grounds. In reaching this view Officers have taken into account the Council's inability to demonstrate a 5 year housing supply and the weight afforded to the broader public benefits of the scheme, which include the provision of open market and affordable housing, and the economic benefits of the construction phase and future household expenditure within the local area.

Recommendation

Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, flood risk, and lack of a signed s106 legal agreement, where the level of conflict with policy guidance and the harm to the heritage asset outweighs the benefits of the proposal. —Taken as a whole, the adverse effects of granting permission significantly outweigh the benefits.

Detailed reasons are provided at the end of this report.

Statutory Determination Period

13 weeks - extension of time agreed with the applicant in order to accept revised plans, re-advertise the proposals, and determine at the February 2019 Planning Committee.

Site Details

The application site is the eastern half of a triangular shaped field set on the northern side of Totnes Road, west of Collaton St Mary C of E Primary School. The site has historically been locally known as the "Car Boot Field". The eastern half of the field which the application relates to is the lower half, where the land drops from west to east. The field is approximately 7.2 hectares and the application site is 4.5 hectares.

The northern boundaries of the site are clearly defined by existing hedges. The southern boundary that runs along the edge of the Totnes Road is a mixture of rural estate railings, scrub hedging and intermittent trees adjacent to a linear grass verge, which provides views across the field and to the rising rural landscape to the north and east. The western boundary of the application site cuts across the open field.

There is currently no vehicular access to the application site as the sole access point to the wider field is to the west of the application site. There is a pavement along the southern side of the Totnes Road however the northern side, along the site boundary, is a grass verge with no pavement.

On the opposite side of Totnes Road there is existing residential development in a predominantly linear ribbon form. These dwellings are generally set back from the road and the otherwise linear form is broken up by large trees and landscaping to the extent that the run of properties does not overtly read in close or distant views as an urban edge. To the west of the site there is a camping and caravan park. To the north and east there is open countryside land.

There are a number of heritage assets nearby. To the east a number of listed buildings sit within 200 metres of the site. Off Bladgon Road there is the Grade 2* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. To the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. 300 metres to the west of the site is another Grade 2* listed building, the 15th Century Bladgon Manor.

In the Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area, and the Collaton St Mary Masterplan is an Adopted Supplementary Planning Document for the area (adopted February 2016). The land to the north, west and south of the Future Growth Area is designated as Open Countryside within the Local Plan.

Finally in terms of context the valley floor to the north of the site (close to the Bladgon Road) is a linear area with an identified risk of flooding.

Date of Officer Site Visits:

24 January 2018
24 July 2018
12 December 2018

Detailed Proposals

The application seeks full planning permission for 94 dwellings, as amended from 97 following the receipt of revised plans on the 4th December 2018.

The dwellings are all two-storey with pitched roofs, with three dwellings providing three floors due to accommodation being provided within the roof (described as 2.5 storey dwellings by the applicant).

The development is a mix of 2, 3 and 4 bed units provided within detached, semi-detached and short terraces of three. There are 50 detached, 20 semi-detached and 24 mini-terraced units. There are 66 open market dwellings and 28 Affordable dwellings, which equates to an affordable housing provision of 30%.

The materials are predominantly a mix of render and brick with 31 rendered properties and 51 brick properties. The remaining 12 properties are a mix of brick with stone (reconstituted) to two of the elevations. The roofs are all concrete tiles (three differing colours), the windows white UPVC, and the fascias are white with black guttering. Plot boundaries are defined by a mix of walls and hedges to public borders and fencing to private borders.

On-plot parking of between 2-3 spaces per plot is proposed throughout the development through a mixture of front parking courts, private driveways, covered porticos and garages.

The proposal includes a Locally Equipped Area of Play (LEAP) in the south west corner of the site adjacent to the Totnes Road, an informal green area to the south-east corner that is proposed to provide attenuation ponds and an informal orchard, and a further informal orchard greenspace in the north-west corner of the site.

The proposal includes the creation of a single vehicular access off the adjacent Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway in order to facilitate a short designated right hand turn lane into the site. Pedestrian access is proposed at three points adjacent to the Totnes Road with and access close to the LEAP and bus stop to the west and an access to the east close to the school, to supplement the central access. A linear pedestrian route is proposed within the site along the length of the border from the LEAP to the corner of the site near to the school.

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. Full Council resolved in November 2018 that the Plan should proceed to Referendum. 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.

Summary Of Consultation Responses

Urban Design Advisor (Pre-amendment comments)

Comments based on the initial information submitted under planning application including the Design Review Panel Comments and Concept Masterplan Drawing No. CSA/2417/109, May 2016.

The site has been identified as potential for early development relative to the wider masterplan and as such the development of this site will set a precedent for the future sites in the area, particularly to the South of the A385 immediately opposite. Care should therefore be taken to achieve the required quality and establish the principles required to meet the desired density whilst maintaining the rural character.

The scheme has been developed since the pre-app however the primary concerns outlined are that many of the comments from the previous Design Review Panel are still relevant to the current proposals.

Particular concern on the lack of hierarchy to the streets, the 'suburban feel' of the scheme and the lack of legibility through the creation of minor places and landmarks, improved entrances and unclear pedestrian routes.

The current application fails to demonstrate that the topography has been sufficiently dealt with. It is not evident that the large retaining walls in rear gardens is the best solution for the site.

Landscaping proposals require further development to help define the character of the streets and the peripheral areas.

Concluding point is that there are still fundamental issues to be resolved before the application should be considered for approval.

Chairman of the Torbay Design Review Panel (Pre-amendment comments)

Comments based on an interim Response Document (July 2018) include the following key points.

The supporting detail that expresses the contextual response is too narrow to offer the breadth of examples that would be useful in assembling the design for the site, which has new and different conditions to those present in the current village, which would need to be sensitively responded to.

Photo evidence included does not depict any semi-detached properties and whilst these may well occur in the later suburbs on the periphery of Collaton St Mary, it is these developments that are the least characteristic of the original settlement and should be regarded in Guise and Webb's terminology as a 'negative' (rather than 'neutral or 'positive') influence on future attempts to strengthen character.

Observe that in rural settlements:

- The form of streets tends in South Devon to be curvilinear (following contours) which are rarely straight, so therefore 'building lines' in rural settings are quite often curved or deflected.

- The street hierarchy tends to be pronounced, with strong contrast in width and character between main 'through streets' and smaller lanes. The pattern of the streets tends also to be radiating/focussed rather than evenly organised around a block structure, as found in urban and suburban settings.
- The form of smaller houses tends towards modesty in their architectural expression - with the lowered eaves creating architectural form which includes accommodation partially included within the roof-space (not a full two storey presentation) and an informal asymmetric composition, whereas the grander houses might have a more formal expression and have symmetrical compositional tactics. It should be noted that the scale of the existing modest rural properties tends to be reduced with a lower floor to ceiling height than contemporary expectations and this, coupled with the regularity of standard house-types, presents a primary design challenge.
- Street cross-sectional characteristics should also be noted. Relationships between pavement level and front doors (finished floor levels) may well be in response to the wider landform / drainage and therefore provides a further subtle reference to context in rural settings.
- The use of materials and finishes (appearance) tends to be quite varied, but follows a pattern based on an historical constructional sequence. Short terraces of a similar type might be in a single material and use of local stone might be more prevalent in the original core of a place. The pattern and rhythms generated are not fully random but are varied in rural settings and this 'loose organic order' can be usefully re-created.
- Detailing tends to be simple and direct (except in a few higher status dwellings) robust but minimal eaves details and porches as humble 'lean-to' types rather than formal statements of entrance predominate

The proposal has not responded positively to the Design Panel's comments.

Historic England

Historic England states concern regarding the application on heritage grounds.

The proposed development is for 94 houses to be located to the north of the town between the grade II* listed 15th century Blagdon Manor and the grade II* listed Parish Church of St Mary, finished in 1866 and considered to be remain remarkably complete.

Although Collaton St Mary has extended to the west, the landscape around the church and the organic cluster of surrounding historic buildings has retained its rural character. This can still be appreciated through the kinetic experience around the church, on the approaches to, the views from it and the churchyard as well as wider viewpoints that take in the site and the church. The surrounding green fields reinforce the relationship between the church and the rural hinterland and its experience as a rural village church. Therefore, the setting of the church contributes to your experience and understanding of the designated asset and consequently contributes to its significance.

Historic England are not convinced that the current layout has taken into consideration the sensitivity placed on it through its contribution to the setting of the church and further steps should be taken to understand what the contribution of the site is to the significance of the asset derived from its setting.

It is the view of Historic England that the current scheme will result in harm through the erosion of the rural hinterland around the church. The harm is less than substantial but this does not mean that it is acceptable.

Conclude that the application will introduce modern urban development into the rural hinterland of the grade II* listed Parish Church, which contributes to its significance as a rural parish church. Amendments, safeguards or further information as set out in the consultation response should be sought.

Heritage Officer (Pre-amendment advice)

The impact of the proposed scheme on the setting of the listed Collaton St Mary church group: School House (II), Vicarage (II), and church itself (II*), two monuments and lych gate (all II) are key. Both how the church appears from the scheme, and what the views from the church and cemetery of that group will be from the scheme.

Historically Collaton was a small nucleated hamlet with dispersed properties even before the agricultural rebuilding of model farms like Collaton Farm in the 1840s/50s. Higher and Lower Yalberton to the south, and indeed Waddeton (South Hams) and Galmpton exhibited similar layouts, as do the Blagdon hamlets to the north. The response document does not explore the historical context and because of this the property layouts are unnecessarily linear.

When looking from the northeast (i.e. the direction of the church) across the development to the south west there will appear, as they rise up the slope, four rows of buildings set within three rows of street. Extant trees on the field boundaries are shown as preserved, but the planted trees are shown on plot corners or peripheries, when ideally they should be on the garden curtilage intersections as if they were standards in hedged fields, more like the pattern of the 19 century enclosures. Such planting would do much to break up the current linear nature of the plots arrayed along the street.

Draft Strategic Transport (incorporating the views of the Highway Authority)

Inadequate facilities to link to the existing network and a lack of safe and sustainable access to the site for all people. Principal concerns on the lack of a crossing point near to the two bus stops on the Totnes Road near to the west, and the lack of a secured pedestrian (and possibly cycle) path eastwards on the north side of Totnes Road to link to Blagdon Road and beyond.

The proposed vehicular junction appears acceptable.

The internal road layout raises concern. The central shared-space street is inadequately resolved to deter through-movement and is therefore likely to present a risk to road users. It does not accord with the Highway Design Guide. The wider network shows some design parameters that are inadequate for adoption purposes.

No highway drainage shall be directly connected to attenuation or pond. If this is required by the applicant, further discussions will be required with the Highways department.

Lighting along the route adjacent to the North Eastern boundary should be reconsidered. There would appear to be opportunities on the market to install lighting that can maintain dark corridors.

Finally the development would need to contribute to the Western Corridor. The total contribution due, in accordance with the SPD is £56,610. Additionally the SPD notes that improvements to the A385 Totnes Road would be required to make delivery of Collaton St Mary feasible. These costs are estimated at £1m. Based on the site and number of units proposed on the site in the Masterplan (45), this would be equal to an additional contribution of £102,273. These works would include road safety, pedestrian and cycle facilities, public transport infrastructure, rearranged parking provision, and minor congestion relief for the area from the boundary of Torbay on the A385 and the approach to Tweenaway Cross.

At present the development does not provide a safe and suitable access to the site for all users (as per NPPF). The main thoroughfares are not clearly defined and as a result the desire line for vehicles and pedestrians is not an acceptable standard. It is considered that conflict will arise in this situation between users that will result in highway safety concerns. Collectively the issues are considered to result in safety conflicts.

Should the scheme be approved, we would request the above financial contributions to reduce the impact. However, the contribution would not mitigate the lack of safe and suitable access or provide an acceptable layout.

Members will be updated of any demonstrable change to the draft comments summarised above.

Engineers (Drainage)

The hydraulic modelling lacks the sufficient detail. At present it cannot be confirmed whether the surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change. In addition the surface water drainage system must be designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

It should be noted that Torbay Council have identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding.

The S106 contribution to the flood alleviation scheme should be £48,692.00

South West Water

No Objection. For information a public trunk water main runs through the site and no buildings/structures or alterations to ground cover (including the proposed surface water attenuation basin) will be permitted within 3.5 metres of it and neither should it be retained in private garden areas.

Landscape Advisor (pre-amendment comments)

The extent and quantum of proposed residential development should be reviewed to more effectively avoid the visually more sensitive higher ground on the west part of the site, as seen in views from the churchyard of Collaton St Mary Church.

The extent of proposed residential development should be reviewed to more effectively conserve the rural setting of Collaton St Mary, in particular, the intermittent views from Totnes Road of Collaton St Mary Church tower and the important local view from Totnes Road across the west part of the Site to rising ground and hilltop woodland beyond.

Further consideration be given to the extent and design of the proposed Public Open Space, to improve on the current utilitarian design. The distribution of Public Open Space could help maintain the rural setting of the village, as well as important views.

Further consideration be given to the enhancement of landscape character, for example, by incorporating additional new trees within the residential layout, to help integrate the proposed development into the surrounding landscape and the planting of copses along some boundaries and on higher ground.

Further consideration be given to the design of the gateway location identified in the Collaton St Mary Masterplan to positively reinforce the village setting. For example, it may be appropriate to change the proposed boundary treatment in this location to 'parkland' fencing (as the existing precedent) in conjunction with open planting to maintain an attractive open setting on the village approach.

Landscape and Arboriculture Officer

Arboriculture: The Arboricultural Impact Assessment shows that it is proposed to remove a number of small to medium (young to semi-mature) trees along the southern boundary. Proposed tree planting shows new trees along Totnes Road, with substantial planting (including an orchard) on the southern side of the site. There is also planting along the northern boundary (with an orchard in the north-east corner) and a line of trees along the western boundary. Planting in the centre of the site is much more limited. The arboricultural information submitted is reasonable.

Landscape: An area that covers the site has been identified as part of a wider future growth area as part of the Local Plan. The Collaton St Mary Masterplan includes the site as being an area of 'reduced landscape and visual sensitivity'. The Masterplan shows a development plan for the site that includes a planted buffer area along the A385 with new access routes and housing set back from the road. The current proposals however involve building immediately adjacent to the road.

These proposals would involve accepting substantially altered landscape views into the site, particularly from the south and east. Whilst the scheme does include

significant planting proposals for the boundaries and open space provision, the inner part of the site and southern middle section is significantly more limited due to the number of units included and the design. I recommend that this would substantially alter this part of the Collaton St Mary landscape and this would be contrary to the Collaton St Mary Masterplan.

CPRE (Torbay)(Campaign to protect Rural England)

Object. The application conflicts with the approved Development Plan. The proposal departs from and conflicts with the submitted Paignton Neighbourhood Plan. The application fails to deliver key National Planning Policy. The application will significantly increase the risk of further overflows of untreated sewage into the natural environment and pollution of the Lyme Bay and Torbay Marine SAC. The application will have lasting and harmful significant effects on protected species within the South Hams SAC.

Ecology Advisor

General Ecology Advice: There is no reason for refusal of this planning application on ecological grounds provided the proposals within the Ecological Impact Assessment are implemented and maintained in accordance with the Construction Ecological Management Plan and Landscape and Ecological Management Plan documents that have been produced. This includes the appointment of an Ecological Clerk of Works and appropriate post-construction monitoring. Recommend that these measures are secured via appropriately worded planning conditions when the application is determined.

Habitat Regulations Advice: Subject to securing the proposed mitigation measures outlined within the Shadow HRA, Ecological Impact Assessment, Construction Ecological Management Plan and Landscape and Ecological Management Plan, and conditions relating to the Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas and ecological monitoring to provide early warning of threats to bat commuting routes, the development would not have a likely significant effect on the South Hams SAC.

Natural England

No Objection subject to appropriate mitigation being secured. Without appropriate mitigation the application would have an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

In order to mitigate the adverse effects and make the development acceptable, the following mitigation measures are required and should be secured:

- all mitigation and enhancement measures to address potential impacts upon greater horseshoe bats associated with the South Hams SAC.
- In addition, the delivery of further mitigation measures to ensure that the proposals are sufficiently robust.

Advise that an appropriate planning condition or obligation is attached to any planning permission to secure the necessary measures.

NE advice on the Authority's draft Habitat Regulations Assessment is pending. Members will be updated on this matter.

Broader ecology comments:

The proposals are not consistent with Policy SDP3, that states "On and off-site biodiversity offsetting will be required to provide a net gain in biodiversity (Policy SDP3 Paignton North and Western Area, Torbay Local Plan).

Also concern is raised that it would appear that the proposals offer limited green infrastructure provision.

Natural England Standing Advice applies.

RSPB (Pre-amendment comments)

The proposed development will not remove habitat used by cirl buntings.

The provision of integral nest boxes should be increased to an overall ratio of one per dwelling, set above 5m from ground level and close to the eaves, ideally facing north, and suitable dwellings can hold between 2 and 6.

Garden boundaries should be permeable so small mammals such as hedgehogs can move between gardens.

The Adoption Statement (March 2016) for the Collaton St Mary Masterplan Supplementary Planning Document (SPD) specifies that green and physical infrastructure needs to be put in place prior to any development. The SPD shows the land immediately west of the application site to be part of Green Infrastructure (GI) with public access. However, no information was presented with this application regards the nature of this GI (habitat types and management) and delivery timing. In our view, this information should be provided prior to determination of this application.

Vegetation that may host nesting birds should not be removed within the nesting season or only removed immediately following an inspection for nesting birds by a suitably qualified ecologist.

Devon Wildlife Trust

Concern raised regarding the potential effect of the proposed development on the greater horseshoe bat population associated with the South Hams SAC. It is particularly important to secure the protection of the north-east and north-west hedgerows from any lighting which would have the potential to curtail the flight of greater horseshoe bats along these hedgerows. Support the comments made by Natural England.

Affordable Housing Team

Support the number of affordable units being provided on the scheme - 28 in total with a proportionate mix of bedroom numbers and tenures. With over 1000 households currently on the waiting list these will go some way to providing the additional

affordable housing needed for the local people of Torbay.

With regards to the location of the affordable units these should be more pepper potted in terms of provision and request that a further 3 or 4 of the affordable housing units are switched with 3 or 4 open market units. As the plans currently stand 15 affordable units are located at one end of the scheme and in order to meet the Council's objectives around providing mixed and balanced communities we would like to see a small proportion of these distributed onto the wider site.

Strategic Policy Officer

The site is within a Future Growth Area in the Adopted Torbay Local Plan 2012-30 and the Council cannot demonstrate a five year supply of deliverable housing. These are very significant factors that weigh in favour of the application and even if the Council was able to demonstrate a five year supply, the need for housing, and affordable housing would be a material consideration in favour of the proposal.

In order to override the above it we should be satisfied that the harm caused by the proposal is significant and demonstrable, so long that these matters are weighed against the housing/five year supply benefits arising from the proposal.

However a shortfall against five year supply does not override all other considerations, In particular if the proposal is considered to cause less than substantial (but still significant) harm to the setting of a designated heritage asset –in this case the setting of the Grade 2* Listed Church- then NPPF paragraph 196 advises that the harm should be weighed against the public benefits.

Education Team

There is a forecast shortfall in places in the Paignton area and a need for new provision. This is highlighted in the Council's published Primary Position Statements for Place Planning.

As a result of the forecast the Education Skills Funding Agency has agreed to support a new free school in the Paignton area, subject to capital funding for the new school. Obligations from the development could offset this capital cost.

Waste and Recycling Team

The details provided in the Waste Management Plan concerning storage of waste and recycling containers and their collection are adequate.

Torbay Council's waste and recycling collection contractor is not obliged to drive onto any adopted roads when collecting waste and recycling.

Police Designing Out Crime Officer

The play area appears quite isolated with natural policing of it limited to a few overlooking properties.

Tandem parking and reliance on garage parking has a tendency to increase parking on the street due to ease of use, which can increase local pressure and conflict. Where parking is to the side of properties windows should be provided for natural

surveillance.

All rear gardens are securely enclosed by use of a solid boundary treatment to attain 1.8m as a minimum height requirement

All dividing garden material should commence with a 1.8m high privacy screen for approximately 2m and then a 1.2m high (minimum) close boarded fence or wall, with the option to raise to 1.5 or 1.8m by use of trellis or ironwork.

All gates that lead to rear gardens must match the same height and robust construction as the adjoining boundary treatment (1.8m)

All gates that lead to rear gardens are capable of being locked from both sides by means of a key to ensure that rear gardens can be secured regardless of access or egress.

Community Safety Team

No objection subject to a Construction Management Plan being secured by condition to limit the impact upon local amenity during the construction phase.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice/Newspaper advertisement. Initially advertised 24 January 2018 for a scheme for 97 dwellings. Re-advertised 12 December 2018 for a scheme for 94 dwellings following the receipt of revised plans.

70 representations have been received objecting to the proposals. Issues raised:

Not in keeping with the local area

Too many homes for the site

Overdevelopment

Too suburban

Doesn't respond to the rural context

Bad design

Highway safety concerns – inadequate infrastructure in terms of vehicular, cycle and pedestrian movement in the area

Loss of farmland

Impact upon the sewer system

Impact upon the South Hams SAC (bats)

Impact upon the setting of the church

Light pollution

Raises the same issues as previous schemes that have been rejected

Inconsistent with many policies of the Local plan

Inconsistent with the Neighbourhood Plan.

Inconsistent with the masterplan for the area

Unbalanced in terms of the need for jobs and homes

Loss of habitat

Presumption in favour of sustainable development should not apply due to the South Hams SAC.

Indistinct housing sprawl that would ruin the character of Collaton St Mary.
Increase flood risk
Local school already over-subscribed

Paignton Neighbourhood Forum object. The revisions fail to address fundamental issues previously raised and the proposal remains in conflict with the Local Plan, Paignton Neighbourhood Plan, and the Collaton St Mary Masterplan. Overdevelopment, impact on biodiversity, impact on landscape, impact on landscape, impact on drainage and flooding.

Collaton St Mary Residents Association object, number of objections raised.

Torbay and South Devon NHS Foundation Trust object to the proposal unless a contribution to meet the addition patient demand of £83,156.00 is secured as the Trust is operating at capacity.

Torbay Green Party object on a number of grounds.

Stoke Gabriel Parish Plan Group object.

Relevant Planning History

Pre-Applications

DE/2015/0454: Development of 95 dwellings including associated access, car parking, landscaping and drainage infrastructure. Decision: Split decision, principle of residential accepted, design concerns raised and other matters raised in terms of further exploration needed.

Applications

P/2013/0572: Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan. Refused 14.08.2013. Appeal Withdrawn.

Refusal Reasons: (1) Principle, (2) Landscape Impact, (3) Protected Species (4) Flood Risk, (5) Lack of signed S106, (6) Highway Impact.

P/2012/1037: Full application for development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road , internal road layout, car parking, open space, landscaping, ponds, services and infrastructure and all other associated development. Refused 12.12.2012.

Refusal Reasons: (1) Principle, (2) Design and Layout, (3) Landscape Impact, (4) Lack of signed S106.

Design Review Panels

March 2016 DRP (Pre-application DE/2015/0454):

Summary of key points:

There appears to be a gap between the analysis of the site and the vision projected for the development - the essential proposition needs to be rural rather than suburban.

The layout needs to be influenced and informed by a 'place-making' approach, rather than one led by the road layout. Roads need to become streets, parking needs sensitive handling and landscape design needs to reinforce the character of the development. If the form of the streets become less regular then their character becomes more rural and opportunities are created along them for parking, etc.

Once a more successful layout has been developed then clear parameter plans ought to be prepared and adopted through a condition in the planning permission which capture the essential strategies of the layout and ensure that there is no slippage between an outline consent and any reserved matters submissions.

The way in which the layout and individual house types respond to the slope should be assured and effortless - it ought to be an ambition of the development to achieve the least amount of earth-moving and levelling of the site in order to make a viable development.

The site continues to be in a sensitive location and accurate landscape and visual impact assessments should be used to test the revised ideas before submission.

The connections from this new community to the other parts of Collaton St Mary need to be more confidently attempted - in order that active modes of travel (walking and cycling) are firmly promoted.

See great potential in this residential development and believe that it could be a highly desirable and therefore high-value opportunity - providing that the design ambition captures all the opportunities of this potentially beautiful site.

September 2012 DRP (Application P/2012/1037):

Summary of key points:

The design does not make a good case for a major incursion into this relatively unspoilt valley setting.

Perceive the proposals to be a fairly standard suburban character is being imposed on a landscape setting which is essentially rural.

The architectural design is undistinguished.

The landscape strategy needs to integrate more successfully and could be used to

sub-divide and reduce the scale.

Anticipate that the quantum of development would need to be reduced dramatically.

Key Issues/Material Considerations

Principle and Planning Policy

The application site is within a wider area identified as a Strategic Delivery Area (SDA) within the Torbay Local Plan (Policy SS1 *Growth Strategy for a prosperous Torbay* and illustrated within Figure 4 of the Local Plan). This Policy identifies areas for the delivery of growth and change in Torbay for the Local Plan period. The site forms part of the Paignton North and Western Area SDA. Strategic Delivery Area Policy SDP3 (*Paignton North and Western Area*) identifies that 460 houses could be provided within the Totnes Road/ Collaton St Mary Future Growth Area over the plan period.

In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 (*Future Growth Areas*), where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). Policies SS1 and SS2 identifies that Future Growth Areas are areas within SDAs that show broad locations where the Council will seek to work with landowners and the community, through neighbourhood planning and/or master-planning, to identify in more detail the sites, scale of growth, infrastructure etc that is required to help deliver the aspirations of the Local Plan. Policy SS2 states that development within Future Growth Areas must be integrated with existing communities, reflect the landscape character of the area, and be timed in accordance with provision of essential infrastructure.

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development with some areas of green space to the south east of the site. The Masterplan identifies the site as being phase 4, the final phase of the wider Collaton St Mary Masterplan area. However the masterplan states that these elements of the masterplan can be delivered earlier without negatively impacting upon other phases should the need or desire to develop these areas arise sooner. The plan does however state that development in this area will need to ensure that they are properly supported by infrastructure, particularly drainage/flood prevention measures and the retention/improvement of darkened corridors for greater horseshoe bats.

In-line with Local Plan policy and the adopted Collaton St Mary Masterplan, the principle of residential development in this area is accepted.

The Paignton Neighbourhood Plan Referendum Version does not identify housing sites however locational Policy PNP24 (*Collaton St Mary Village*) does outline that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. As the application site is identified as a potential site for housing within the adopted masterplan the Neighbourhood Plan (referendum Version) is considered to support the principle of housing development.

Design and Layout

Achieving good design is a central focus of the Local Plan with one of the five key aspirations being to conserve and enhance a superb natural built environment. The aspiration is stated to be achieved (in-part) by the desire to ensure new development makes a positive contribution to local character and identity, including wider landscape character, and to avoid mediocre design by the use of tools, which include the Torbay Design Review Panel. Policy DE1 (Design) is the principal policy within the Local Plan that reinforces the broader aspiration. Policy PNP1 (c) and (d) of the Paignton Neighbourhood Plan sets out local design criteria, whilst PNP24 seeks development to be designed in such a way that it re-establishes the village character and respects prominent landscape and other features.

Achieving good design is also a clear thread in government guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 is clear 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.

The revised proposal is for 94 dwellings, all of which are two storey (the three dwellings described by the applicant as 2.5 storey are principally two-storey with pre-designed accommodation within the roof). The dwellings are provided in a mixture of detached, semi-detached and short terraced properties, however the footprints of buildings follow a regular rectangular pattern and the built form is predominantly a simple gabled design. The materials are predominantly a mix of render and brick, with 31 rendered properties and 51 brick properties. The remaining 12 properties are a mix of brick with stone (reconstituted) to two of the elevations. The roofs are all concrete tiles (three differing colours), the windows all white UPVc, and the fascias are white with black guttering. Plot boundaries are defined by a mix of walls and hedges to public borders and fencing to private borders.

An earlier iteration of the scheme was considered by the Torbay Design Review Panel in 2016 and the applicant also had a larger scheme for the entire field considered by the Torbay Design Review Panel in 2012. The conclusions and advice to both schemes emphasised concerns on the suburban nature of proposals and the requirement for a successful solution to better respond to the rural context and landscape character.

The proposed layout and quantum of development is considered to present a suburban grain that is at odds with the broader rural character of Collaton St Mary. The general building form and arrangement is generally replicated throughout the development and the mainly consistent form and arrangement fails to adequately resolve a suitably variegated townscape, which has been highlighted as an integral element to secure a more rural character. The concerns are discussed in more detail

below.

The repetitive building arrangement and form presents a standard and somewhat un-unique street arrangement that fails to draw on the characteristics of Collaton St Mary and the surrounding rural hamlets, where building patterns are more varied.

The building form is principally the same throughout the scheme, with two-storey properties of similar scale under simple gabled roofs. The similarity of the building forms through the scheme presents an un-unique development that fails to respond to the built character of Collaton St Mary and the surrounding rural hamlets.

The materials, which are principally render and brick with occasional partial use of reconstituted stone under concrete tiled roofs fails to positively respond to the rural character, where natural materials (such as local stone and slate) are more prevalent. Within the scheme the limited and sporadic use of stone appears somewhat contrived and does not respond to the more organic evolution of villages that often presents more distinct pockets of buildings with a certain character type. In addition to the façade material the singular solution for the windows, i.e. white UPVc throughout the scheme, again reinforces the concerns on the suburban nature of the proposals and the failure to present a satisfactory locally distinct development.

Further design concerns include the prevalence of blank gables within the streetscene and the blank gables adjacent to public walkways. These appear the result of imposing somewhat standard housing types upon the layout that fails to reflect the more organic nature or rural layouts and rural building forms. It is noted that the submitted Design and Access Statement presents a concept of natural surveillance over the footpath adjacent to the Totnes Road, however the layout plans and elevations appear to show blank gables along to three of the four properties.

The scheme has also failed to adequately resolve the provision of incidental public space through the scheme, which fails to respond to previous design review advice, and the scheme presents limited landscaping within the site away from the borders, which imparts a much harder built suburban character to the development, and a disconnect with the rural landscape character of the area.

Principally for the reasons above it is concluded that the development presents an unsatisfactory suburban form of development within a rural landscape-led context, and thus fails to adequately respond to its context. The development also presents an unsatisfactory presentation to the public realm through the extent of the provision of blank facades to prominent elevations within the public realm and prominent elevations that face key pedestrian routes, to the detriment of the streetscenes and to public safety.

The proposal is considered contrary to Policies DE1, H1, SS1, SS2, SS10 and SS11 of the Local Plan in terms of poor design.

The proposal is considered contrary to Paras 124, 127 and 130 of the NPPF in terms of poor design. The proposal is also considered contrary to Para 129 of the NPPF where fails to have due regard to the concerns of the Torbay Design Review Panel.

The proposal is also considered contrary to the design guidance contained within the Adopted Collaton St Mary Masterplan.

The proposal is considered contrary Policies PNP1 and PNP24 of the Referendum Version of the Paignton Neighbourhood Plan.

Residential Amenity

One of the Core Planning Principles of the NPPF seeks to secure a high standard of amenity for all existing and future occupiers of land and buildings. Policy DE3 of the Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers, and should not unduly impact upon the amenity of neighbouring and surrounding users. It is noted that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total.

In regard to residential development due consideration needs to be given to the adequacy of internal space and external amenity space, and whether the relationships between properties and plots would not unduly affect the amenities or privacy of occupiers, including through loss of light, overshadowing or overlooking.

In regard to the potential impact upon existing neighbouring uses the site is quite isolated and principally borders agricultural land and a relatively wide strategic highway. Adjacent occupiers are limited to the southern side of the Totnes Road where they are generally set back from the highway and screened by strong front border treatments. Due to the distances involved the amenity of adjacent occupiers along the Totnes Road would not be unduly impacted. The impact of light-spill from headlights, principally from use of the proposed junction, has also been considered and due to the border treatment and distances involved the impact of headlights upon the amenity of occupiers opposite is expected to be limited. The south-east corner of the site abuts a primary however the development proposes a greenspace with drainage ponds on the land adjacent to the school, which would not impact on the amenities of the school.

In regard to the amenities of future occupiers of the development the internal habitable environments of the dwellings are considered acceptable. The dwellings are suitably sized in terms of floorspace and accord with the size standards outlined within Policy DE3 of the Local Plan. The dwellings range from 72sqm for the smaller two-bed properties, up to 145sqm for the largest four-bed properties. In addition the dwellings appear to offer suitable natural lighting to key rooms with appropriate outlooks.

In terms of outdoor amenity space the Local Plan guides that all new dwellings should seek to secure at least 55sqm of usable outdoor amenity space. The submitted "gardens" plan indicates that garden sizes will range from 56sqm to 235sqm, although the majority will be afforded around 70-90sqm. The sizes do include areas of steeply sloping banking in areas and constrained side areas, which are areas that are not

particularly usable, however notwithstanding the incorporation of these areas, the size of gardens would meet or exceed the expected minimum garden size for new dwellings.

In regard to overlooking and privacy, although the Authority does not have specific design parameters for residential layouts there is a broad understanding that a separation distance of 21m in a back-to-back arrangement would generally provide an acceptable level of privacy for future occupiers for two-storey development. There is also a general understanding that distances may need to be increased on uneven land or where the number of storeys is increased. The development generally proposes back-to-back distances of between 19m and 22m. There are however certain plots that show oblique distances less than the prevailing distance, down to around 15m between plot 60 and plot 83 for example.

Across a number of plots that hold back-to-back distances between 19m and 21m there is however a level difference due to the topography of the site, this presents a number of properties that are 3m or 4m higher or lower than corresponding properties. Again although the Authority does not hold specific design requirements there is a broad understanding that where relationships are uneven, distances between properties should be increased to afford occupiers adequate amenity. An additional 2m separation distance for every 1m difference in levels is an oft-cited standard. Using the methodologies cited above it would be reasonable to conclude that across a number of properties back-to-back distances of around 27m-29m would be more appropriate to secure adequate levels of privacy. This concern also relates to relevant plots where raised terraces reduce the distances to plots set on lower levels and where such terraces sit in close proximity to boundaries with adjacent plots, to the detriment of amenity through loss of privacy and overlooking. An example is the relationship between plot 61 and plots 82, 83 and 60.

In terms of front-to-front relationships it is generally accepted that the distance between properties can be less than the back-to-back arrangement as the front of properties are naturally less private where they front on to the public domain. The central street within the development presents a number of properties that face each other at distances of around 11m and 12m. When considering the design of the properties, i.e. where there is little relief in terms of the orientation emphasis of properties with fairly standardised layouts sitting face to face, the level of inter-looking is likely to diminish the quality of the residential environment afforded future occupiers.

When considered in the round, the relationships to the front and back combined are likely to demonstrably impact the quality of the residential environment for future occupiers of some of the proposed dwellings. Such impacts are heightened for plots 73-83 who will experience little respite from overlooking with both front and rear aspects effected. It is, for these reasons, concluded that the residential amenity for future occupiers would be unacceptable.

In terms of light and overshadowing, the relationships detailed above will present properties in closer proximity, depending on the street alignment and presence of sloping land, with potential impacts in terms of overshadowing and loss of sunlight to lower plots and gardens, which would again diminish the quality of some of the plots.

When considering the extent of concern across the layout the expected level of impact upon the quality of the residential environment it is considered by Officers to be an indicator of an overdevelopment of the site.

It is considered that the proposals present an unsatisfactory residential environment for future occupiers due to the reasons stated above, contrary to the aspirations of Policies H1, DE1 and DE3 of the Local Plan, which seek to secure high quality living environments within well-designed places that afford future occupiers a good level of amenity. The development is also contrary to the NPPF in this regard.

Landscape Impact

The site forms part of the rural setting on the western edge of Collaton St Mary. The rural setting is principally apparent in northern and eastern views from Totnes Road approaching the village where there are intermittent open views across the site to rolling hills and views of Collaton St Mary Church. The site and rural setting is also apparent in outward views from the churchyard westwards over the valley floor towards the rising ground of the site and its surrounds.

It is noted that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total.

In terms of landscape character the Torbay Landscape Character Assessment identifies that the site lies within a Torbay Landscape Character Type 1 “Rolling Farmland” and is part of the sub-divided area of “Blagdon Barton”. Key landscape characteristics of the site and surrounding landscape of particular relevance to the application are the mixed farm land on rolling hills, the vegetation cover provided by hedgerows and banks containing trees and tree groups, areas of vegetation within and around the various developments providing a degree of assimilation, and narrow copses often present beside lanes and streams and occasional hill-top woodlands.

In terms of further policy-based landscape information that is relevant the Collaton St Mary Masterplan identifies a number of key views around the site, which include glimpsed views from Totnes Road looking north-east towards Collaton St Mary Church tower and broader views to rising ground and woodland, views from Collaton St Mary Church churchyard looking south-west towards the upper west part of the site, and views from Blagdon Road looking south-west where there are filtered views into the Site through the sparse boundary hedgerow beyond the foreground linear.

The Council’s landscape advisor assessed the original scheme for 97 dwellings, including the supporting Landscape and Visual Impact Assessment (LVIA). The assessment raised a number of concerns and recommendations, the key points being concern on the extent and quantum of development being proposed in terms of the impact of views from the churchyard and the intermittent views along Totnes Road. The lack of rural character to the public open space and how its distribution would not successfully secure a rural setting. The insufficiency of the landscaping to enhance

character. And the lack of suitable resolution for the development to contribute as a gateway feature in terms of reinforcing an open village feel to the area.

The revised proposals are supported by an amended LVIA and a response document to the specific landscape concerns raised by the Council's landscape advisor, which included photomontages as requested by officers.

In regard to the concerns relating to the quantum of development and the views from the church and from along the Totnes Road the applicant cites that the houses closest to the public open space, on the highest ground, have been pushed further east onto lower ground and that photomontages supplied help illustrate acceptability. The public open spaces have been redesigned to present a more natural and varied character. That the provision of additional trees within the development help to break-up the linear nature of the streets. And that the boundary treatment along the Totnes Road has been adjusted to respond to the desire for a more open setting for the development's edge.

It is suggested within the submitted LVIA that the direct development effects on the landscape would be slightly beneficial on hedgerows and trees and moderately adverse on the farmland character of the site. It suggests that indirectly there would be a slight adverse impact upon the broader landscape character, and neutral impacts upon the settlement and value of the landscape. In terms of visual effects it suggests that there would be moderate adverse effects from the Totnes Road and adjacent properties and slight adverse (moving to insignificant over time) effects from the churchyard.

Notwithstanding the amendments it is Officer's opinion that there remains little evidence that the proposals would successfully create a distinctive character in landscape terms that responds adequately to the rural context. Outside of certain peripheral areas that are absent of development, essentially to respond to contour, drainage and bat constraints, the site remains more or less fully developed. The prominent landscape features remain largely around the borders of the site and although the revised scheme has sought to introduce additional planting within the development the planting appears heavily constrained by the lack of space around and between buildings. It is therefore likely to have a limited benefit in terms of assimilating the proposed development into the surrounding landscape, in particular from elevated views such as from the churchyard of Collaton St Mary church.

The photomontages that have now been provided are considered to reinforce the initial concerns of the Council's landscape advisor in terms of how incongruous the development would sit in the locality in terms of a suburban insertion into a rural landscape context, when viewed from the Totnes Road and from the churchyard. It is considered that the effects are likely to be amplified through the seasons when there is less tree cover, where it is noted that the submitted montages do not include "winter" views. These concerns somewhat accord with the Council's landscape advisors initial comments that certain visual effects "substantially downplay" the actual visual effects likely to occur.

The Council's Arboriculture and Landscape Officer has reviewed the revised scheme

and concludes that the development would substantially alter part of the Collaton St Mary landscape and would be contrary to the Collaton St Mary Masterplan, as the proposals would involve accepting substantially altered landscape views into the site, particularly from the south and east, noting that landscaping within the inner part of the site and southern middle section is significantly more limited due to the number of units included and the design.

The proposed development does not therefore fully meet the requirements of Policies SS2, SS3, H1, DE1 of the Torbay Local Plan, the adopted Masterplan for Collaton St Mary, or the NPPF, particularly paragraphs 127 and 170. Or Policies PNP1 (c) or (d) or PNP24 of the Referendum Version of the Paignton Neighbourhood Plan.

Heritage Impacts

There are a number of heritage assets nearby, to the east of the site a number of listed buildings sit within 200 metres. Off Bladgon Road there is the Grade 2* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings. To the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. Finally 300 metres to the west of the site is another Grade 2* listed building, which is the 15th Century Bladgon Manor.

Although Collaton St Mary has experienced extending development the landscape around the church and adjacent listed buildings has retained its rural character, which is appreciated on the approaches to these buildings and, certainly in terms of the church, the views from within the churchyard. When viewed from the raised land of the rear churchyard the site is clearly visible and forms part of the rural landscape. This landscape is principally absent from incongruous development with an open vista of undisturbed rolling countryside within only glimpsed views of the ribbon development along the Totnes Road present. The Paignton fringes and mid-20th Century St Mary's Park are obscured from view due to the topography and established buildings and landscaping. The rolling landscape strongly reinforces the historic rural context of the Parish church and contributes to the experience and understanding of the designated asset and consequently contributes to its significance.

Historic England are not convinced that the current layout has taken into consideration the sensitivity placed on it through its contribution to the setting of the church. It is the view of Historic England that the current scheme will result in harm through the erosion of the rural hinterland around the church and note that the harm is less than substantial, but this does not mean that it is acceptable.

The Council's Conservation Officer had previously concluded that the supporting documents did not explore the historical context and because of this the resulting layouts were unnecessarily linear. There was principally concern that four rows of buildings set within three rows of street, with limited planting that would do little to break up the development, would present a suburban entity within the setting of the church, which would harm the heritage asset.

Considering the advice above it is acknowledged that the development would have an impact on the setting of listed buildings in the area, but principally the setting of the

Grade 2 * Parish church, where there will be direct visual link. Historic England has advised that the level of harm is likely to be less than substantial, but are minded to advise that this does not necessarily mean that the level of harm should be considered acceptable.

In policy terms H1 (Listed Buildings) of the Torbay Local Plan is clear that development proposals should have special regard to the desirability of preserving any listed building and its setting. This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The NPPF also offers key guidance and iterates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). It furthers that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). In relation to the level of harm relevant to this proposal English Heritage view that the level of harm to be less than substantial. The NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In this instance the impact on the setting of the Grade 2* Parish Church of St Mary and other listed buildings needs to be weighed against the public benefits of the proposal. In this instance the public benefits being the provision of 94 houses, of which 30% will be affordable, which is not above the policy complaint level of affordable housing. In addition the scheme will deliver construction jobs and the resultant households and their expenditure within the local economy will also be a public benefit.

Officers are mindful that the site is identified for housing and the principle of housing is not objected to per se. Officers are also minded that the adopted masterplan for the area indicates that the site, along with a separate area of land nearby (both referred to as Phase 4), could potentially deliver around 105-110 units. The masterplan suggests that the site under consideration would provide less than half of the total. There are some longstanding and fundamental concerns about design through previous Design Review Panels and design advice which appear intrinsically linked to the quantum of development being sought. Having due regard to the NPPF's view that great weight should be given an asset's conservation, regardless of the level of harm, and that any harm should require clear and convincing justification, Officers are unconvinced that the public benefits justify the harm to the identified heritage asset. Officers are also mindful whether the benefits of the scheme could not be delivered in a different form of residential development that did not result in the obvious harm to the setting of important heritage assets (and the landscape character of the area)

On balance although the level of harm is less than substantial there is an absence of

justification to accept the level of harm, and therefore the balancing exercise weighs against the proposal in its current form. The proposal, in terms of heritage assets, is considered in conflict with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF. In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

Highway Safety, Access and Parking

The proposal includes the creation of a single vehicular access into the site located approximately 125m from the eastern corner of the site (that borders the school), which locates the junction opposite the property Urana. The junction includes a degree of road widening to secure a right-hand turn into the site. Accompanying the junction there is a proposed central pedestrian refuge crossing. Additional highway works are proposed to the west at the existing Paignton-bound bus stop to create a pull-in. In terms of pedestrian access points a link is proposed adjacent to the Paignton-bound bus stop and there is a pedestrian access in the eastern corner near to the school. Between the two pedestrian access points along the border with the Totnes Road there is a proposed footway west of the proposed junction and a proposed foot/cycle way to the east of the proposed junction.

In regard to the highway works and proposed access and egress arrangements into the site the junction is considered adequate to serve the development with the right-hand turn sufficient to serve the expected traffic movements. The central reservation adjacent to the junction is welcomed however the absence of a similar provision adjacent to the two bus stops further west will create a safety concern in terms of encouraging unsafe crossing of a busy highway by pedestrians. It is the view of the Highway Authority that an island and the appropriate highway widening should be secured to deliver a crossing point where there will be an obvious desire to cross. The eastern footway aside the proposed junction serves no purpose and the Highway Authority has raised concern on its purpose and how its provision may encourage unsafe crossings. It is recommended that the footway extension is removed. Further although the foot/cycle access point at the eastern corner of the site onto the highway verge is welcomed there is no detail that provides certainty that any foot/cycle way could be extended down to the school / Blagdon Road Junction. In terms of connectivity and highway safety it is considered vital that such a route is shown to be deliverable and delivered as part of any substantial residential development on the northern side of the Totnes Road, as crossing to the existing pavement on the southern side to a crossing close to Ocean BMW is not likely to be considered desirable by pedestrians and would encourage unsafe crossing of a busy highway.

Internally within the site the development proposed a network of roads, mostly with footways. The central street is however designed as a shared space with no footways provided. Generally the layout is not considered acceptable by the Highway Authority as historic concerns do not appear to have been addressed by the current detailed design. Of particular concern is the road widths and lack of footways and although the Torbay Highway Design Guide allows for flexible arrangements in appropriate locations it is considered that the layout of this development and extent of 'shared space' is not conducive to the arrangement. It is considered that the layout requires

further modification to discourage the flow of traffic towards the central area shared surface and to encourage through-traffic westwards. The central square shared surface area also likely to encourage inappropriate parking problems, which may present access issues and neighbour conflict. The design also currently fails to demonstrate how parking problems can be avoided without the need for parking restrictions. In addition to the above some of the curves in the highway do not meet the design guide criteria, again this challenges the acceptability of the layout on safety grounds. The Highway Authority have also raised concerns on the materials plan for the highway and the matter is currently not acceptable. It is considered that these issues need to be remedied in order to make the layout acceptable and adoptable. In terms of pedestrian movement the footpath (noted as being adoptable) connecting the bus stop into the development is considered too narrow and, along with the linear boundary route, should be shared cycle use.

In terms of parking the development accords with the expectations of the Local Plan with at least two car parking spaces per dwelling on-plot. It is noted that the proposed garages do not meet the size expectations within the Local Plan however as these are additional spaces the concern over this is limited.

In-line with the comments above, due to the concerns on the internal highway layout and due to the absence of adequate pedestrian and cycle linkages within the site and to the wider area, the development has poor connectivity and is likely to present a risk to highway safety, contrary to Policies TA1 and TA2 of the Local Plan and advice contained within the NPPF.

Ecology and Arboriculture

The site is an open grass field with tree lined borders and the application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams SAC. The key ecological issues relate to the use of the site by GHBs, consideration of reptiles, principally slow worms, and foraging badgers (as there is a sett in the north-west corner), along with broader biodiversity issues.

The submitted information proposed a mitigation that includes creating an exclusion zone around the badger sett, retaining and enhancing hedgerows, creating a 10m wide 'dark' wildlife corridor (<0.5 lux), suitable habitat/ tree planting, installation of a range of bird and bat boxes on new residential builds, garden fence small mammal passes, and wetland planting in association with the sustainable urban drainage area.

In regard to the 'dark' area the proposals include suitable phasing in the shadow HRA which seeks to ensure early establishment mitigation. The External Lighting Statement (2018) details the proposed strategy to minimise light levels particularly within the 'dark' corridor with measures including not using street lighting in some areas, the application of 50% transmittance glazing on some plots, and covenants to prevent installation of external household lighting. Additional hedgerow planting to

minimise light spillage is also proposed.

The Council's ecology advisor has concluded that there is no reason for refusal of the planning application on ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

The Council's draft HRA has been submitted to Natural England for comment and Members will be updated on any demonstrable comment that is not aligned with the ecological advice officers are currently working with, that subject to achievable mitigation the proposal is considered acceptable on ecology grounds.

The Council's arboricultural officer has reviewed the submitted information and has concluded that the detail is generally satisfactory.

The proposal is considered acceptable on ecological and arboricultural grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan and advice contained within the NPPF.

Drainage and Flood Risk

The site sits in an area with a low risk (Flood Zone 1) of flooding, however there is a linear area of heightened flood risk to the north that follows the valley floor from west to east. The site is also within a Critical Drainage Area as designated by the Environment Agency.

A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans that illustrate a drainage solution that utilises attenuation tanks and balancing ponds. These are situated in the eastern corner of the site and integrate into a wider area of public open space.

The Council's drainage engineer has reviewed the submitted detail and raised concern on the level of information. Principally the system lacks detail and therefore fails to demonstrate it accords with the requirement to be designed to cater for the 1 in 100 year critical storm event plus 40% for climate change, to ensure there is no additional risk of flooding from the development.

Within the surface water system there is an infiltration basin and the results of infiltration testing has been summarised within the flood risk assessment. However, there are no details of where these infiltration tests have been carried out, the depth of the infiltration testing or the detailed site records of the infiltration testing. These are required in order to confirm that the testing has been carried out in accordance with BRE 365 and at the invert level and location of the infiltration basin.

In addition the masterplan identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood

alleviation scheme should be secured from the developer through S106 funding. The S106 contribution to the flood alleviation scheme should be £48,692.00

South West Water do not object and only advise that a public trunk water main runs through the site and no buildings/structures or alterations to ground cover (including the proposed surface water attenuation basin) will be permitted within 3.5 metres of it and neither should it be retained in private garden areas.

The Environment Agency has not offered comment.

In accordance with the concerns raised by the Council's drainage department acting as the Lead Local Flood Authority the development presently fails to demonstrate that the risk of flooding would not be increased and fails to secure, through a s106 funding mechanism, necessary strategic infrastructure. The proposal is considered contrary to Policies ER1, ER2, SS2 and SS7 of the Local Plan and advice contained within the NPPF.

Other Material Considerations

5 year housing supply

The Council has between around 3.8 - 4.5 years' housing supply based on an assessment at December 2018.

Paragraph 11 of the NPPF outlines that plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay, or the granting of permission where there are no relevant development plan policies or where the most important policies are out-of-date. A lack of a demonstrable 5 year housing supply principally renders the most relevant policies of an otherwise up-to-date development plan out-of-date.

In such circumstances, permission can only be refused (according to the NPPF) according to two tests-

- 1) There are specific policies in the NPPF that provide a clear reason for refusal, or
- 2) The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (when assessed against the Framework as a whole).

This presumption in favour is often referred to as the 'tilted balance'.

It must be remembered that the NPPF is only a material consideration. It has no power to supersede an adopted development plan. However it does set out clearly that decision makers must give significant weight to housing supply considerations.

Notwithstanding the above as the proposal is considered to cause less than substantial harm to a heritage asset, and may affect a designated Special Area of

Conservation, the proposal should be considered without using the 'tilted balance', as laid out Paragraph 11 of the NPPF. The benefits of the scheme are still relevant as a material and the provision of 94 homes would help address the lack of a 5 year housing supply and the public benefit of this should be afforded due weight in the decision making process. The residential profile of the development is considered to provide a good balance and mix of types and tenures, providing much needed family housing, and this includes a proposal to provide 30% affordable housing across the site. In the absence of a 5 year housing supply these are important considerations and must be weighed in favour of the development.

Public Benefit

In addition with the provision of 94 new homes that would contribute towards meeting the Council's housing land supply, in accordance with the Government's growth agenda and the Council's growth agenda, the proposal could have a number of benefits to the local economy. Jobs are likely to be created through the construction process, and support the supply chain during construction. Occupiers of the proposed dwellings would contribute to the local economy by using local amenities and services. This would be a form of public benefit by providing additional income to many local businesses.

The weight to be attached to the public benefit is a judgement for the decision maker, but it is the view of Officers' that the provision of housing and the related economic benefits carry quite significant weight. However the principle of housing on the site is not disputed, the site is clearly identified for housing and the adopted masterplan identifies the site for housing, and it is undetermined whether the benefits of the scheme could not be delivered in a different form of development that presents conformity with the Local Plan, Emerging Paignton Neighbourhood Plan, and the NPPF.

S106/CIL and Affordable Housing

Affordable Housing:

Affordable housing provision is required from this development in accordance with Policy H2 of the Torbay Local Plan.

For the development of greenfield sites Policy H2 for schemes of 30+ dwellings seeks 30% affordable housing, of which 5% should be self-build plots (in-line with Policy H3 of the Local Plan).

The proposal includes 28 affordable housing units, which equates to a policy compliant 30% level. The proposal does not propose to provide self-build plots and has sought to justify this within supporting documentation. The Council's affordable housing team has not questioned the lack of self-build.

The provision provides a mix of 2, 3 and 4 bed properties (15x2-bed, 10x3-bed and 3x4-bed). This is not questioned by the Council's affordable housing team and the mix of units is considered acceptable.

The location of the affordable housing units is detailed within the submitted plans. 15 of the units are proposed within the area adjacent to the Totnes Road. 8 units are proposed along the northern side of the central street. 3 units are proposed within the short terrace at the northern end of the site. And 2 are proposed within the street fronting the north-eastern boundary of the site. The Council's affordable housing team has raised some concern in terms of the location of the units and wishes to see a reduction of affordable housing units near to the Totnes Road with some of these (3 or 4) distributed within the wider site, in order to meet the Council's objectives around providing mixed and balanced communities.

Subject to some minor alterations to the distribution the provision of affordable housing is considered consistent with the policy expectations of Policy H2 of the Torbay Local Plan.

S106:

Subject to some minor alterations to the distribution the provision of affordable housing is considered consistent with the policy expectations of Policy H2 of the Torbay Local Plan.

Site Acceptability Measures

Highways

Improvements to the A385 Totnes Road are required to make the delivery of the Collaton St Mary masterplan area feasible. The costs are estimated at £1million, with the cost spread across the developments in the masterplan area. Based on the total estimated cost and the expected number of dwellings within the masterplan area and within this particular site a contribution £102,273 should be secured. These works would include road safety, pedestrian and cycle facilities, public transport infrastructure, rearranged parking provision, and minor congestion relief for the area from the boundary of Torbay on the A385 and the approach to Tweenaway Cross.

Flood Works

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. As the proposal is for 94 properties proposed the S106 contribution to the flood alleviation scheme should be $94 \times £518 = £48,692.00$.

Sustainable Development Obligations

Sustainable Transport

£56,610 – In accordance with the adopted SPD considered, towards ongoing projects to improve the cycling links to the Town Centre which, as part of ensuring a safe access for all users, should also be continued to by the development.

Greenspace and Recreation

No obligation request raised by Natural Environment Services.

Education

£498,870.00 - Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton.

Lifelong Learning Obligations

£17,097.00 - Obligations in-line with the adopted SPD should be sought to secure library improvements within the area.

Waste and Recycling

£5,610 - Obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

CIL:

The CIL liability for this development is Nil.

EIA/HRA**EIA:**

In-line with the EIA Regulations 2017 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.

It is noted that the Authority issued a Screening Opinion on the 26 May 2016 based on 110 dwellings that concluded that the proposal would not be EIA development.

HRA:

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC. Natural England have been consulted and Members will be updated on any judgment that conflicts with the Local Authority's draft HRA conclusions.

The application is suitable for approval subject to any other relevant material planning considerations/subject to securing the mitigation measures either by condition or s106 agreement as may be appropriate and any other relevant material planning considerations.

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.

Proactive Working

In accordance with the guidance contained in the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case notwithstanding pre-application advice and ongoing discussions throughout the course of the application concerns principally over the design, highway layout and visual impact of the scheme, including the impact upon the setting of heritage assets, have failed to be adequately addressed and the recommendation is therefore one of refusal.

Conclusions

The proposals are considered contrary to Policies SS1, SS2, SS6, SS7, SS11, SS12, SDP3, TA1, TA2, HE1, H1, DE1, DE3, ER1 and ER2 of the Torbay Local Plan 2012-2030 for the following reasons.

The proposal presents poor design that fails to respond positively to the rural context, which would harm the setting of a heritage asset, and fails to present an acceptable residential environment for future occupiers, due to close proximity of properties on sloping ground that is likely to present unacceptable inter-looking and overlooking. The proposal fails to secure adequate connectivity and fails to secure an acceptable highway layout, which will present a risk to highway safety. The proposal also fails to demonstrate that there would be no increased risk of flooding and fails to deliver security on the delivery of affordable housing and other necessary planning obligations necessary to mitigate its likely impacts.

The weight afforded the provision of housing, including a policy compliant level of affordable housing, and the general construction benefits that would be expected with such a housing scheme, has been considered against the level of conflict with the Local Plan, NPPF and the Emerging Paignton Neighbourhood Plan in terms of issues raised above, including the Council's duty to give great weight to the protection of the setting of heritage assets, which includes the nearby Grade 2* Church of St Mary.

As the proposal is considered to cause less than substantial harm to a heritage asset, and may affect a designated Special Area of Conservation, the proposal should be

considered without using the 'tilted balance' as laid out Paragraph 11 of the NPPF in this instance. The application is recommend for refusal.

Officers have weighed up the benefits of the proposal and taken into account the shortfall against 5 year housing supply, However the adverse effects of granting planning permission, taken as a whole, are considered to significantly outweigh the benefits.

Condition(s) / Reason(s)

Design and visual impact

The proposed development, by reason of its design, layout, and density, would present an overdevelopment of the site and a visually discordant form of development that would fail to relate satisfactorily to Collaton St Mary and the wider rural setting, and therefore would fail to deliver a sustainable form of development that would integrate effectively with the surrounding area. The proposal comprises a suburban form of development and vernacular that would fail to respect the 'edge of settlement' rural character of the site and would fail to provide a high quality development. As such the proposal fails to meet the objectives of Policies H1, DE1, SS2, SS10 and SS11 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 122, 124, 127, 129 and 130.

Residential quality

The proposal, by reason of its layout and detailed design, would present an overdevelopment of the site to the detriment of the residential amenity of future occupiers, through the creation of building proximities and plot layouts that would afford undue overlooking and loss of privacy between properties and private garden areas, contrary to Policies H1, DE1 and DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 127 and 130.

Heritage

The proposal would, by reason of its design, layout and density, present an overdevelopment of the site and, by virtue of its overtly suburban form, an incongruous form of development within the rural landscape setting of the Grade 2 * Parish Church of St Mary. Due to the existing unspoilt nature and quality of the landscape within the setting of this rural parish church the proposal would result in less than substantial harm to its setting but one that is still significant and not outweighed by the public benefits of the proposal. The proposal is hence considered contrary to Policies SS1, SS2, SS10, HE1, H1 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 193, 194 and 196.

Highways

The proposal, due to the absence of adequate pedestrian connectivity to the wider area is likely to encourage pedestrian movement patterns that would increase the risk of danger to highway users. The proposal would also employ an internal highway configuration that conflicts with the Torbay Highway Design Guide and fails to adequately resolve safety concerns in terms of pedestrian and vehicular movement

within the central “shared street”. As such, the proposal would fail to deliver a safe and secure environment for all highway users, contrary to Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, particularly paragraphs 108, 109 and 110.

Flood Risk

In the absence of necessary design details in relation to the surface water drainage system, designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, the development fails to demonstrate that the risk of flooding to land or buildings, within the site or elsewhere, would not be increased within a designated Critical Drainage Area. The proposal is therefore considered contrary to Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraphs 163 and 165 of the NPPF.

S106

In the absence of a completed legal agreement under Section 106 of the Town and Country Act 1990 (as amended), the development fails to secure necessary site acceptability mitigation to deliver flood risk alleviation works and highway network works, fails to secure the delivery of affordable housing, and the physical, social and community infrastructure necessary to make the development acceptable in planning terms. The development therefore fails to satisfy the aims of Policies SS6, SS7 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery". The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies SS6, SS7, H2, ER1, ER2, TA1, TA2, SC3 and W1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF, principally paragraphs 54 and 56.

Application Number

P/2018/1009

Site Address

Land to the rear of 190 Northfields Lane
Brixham
TQ5 8RD

Case Officer

Ben Gilpin

Ward

Preston

Executive Summary/Key Outcomes

This planning application seeks permission for the construction of two detached dwellings, each with integral double garages and garden areas. The scheme proposes a formal landscaping scheme, as well as the re-instatement of the wall at the perimeter of the site. Each property would have an impermeable built footprint of 143 square metres (286 square metres in total). The site design incorporates an on-site soakaway.

Recommendation

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding matters to be delegated to the Assistant Director for Planning and Transport.

Reason for Referral to Development Management Committee

Following a Site Review Meeting (SRM), it was concluded that the application should be referred to the Development Management Committee for determination.

Statutory Determination Period

29.11.2018

Site Details

The site comprises part of the garden area of 190 Northfields Lane, which is a detached dwelling elevated above the site. The site is overgrown, with some works having been undertaken, including site clearance and partial wall removal / erection of Heras fencing around the site.

The site has Fishcombe Road and a wooded area to the north and east, with residential properties to the south and terraced holiday lets to the west.

The site is large (0.112 hectares), and slopes from SE to NW. The site is accessed to the north from Fishcombe Road.

The site is within the settlement boundary of Brixham but is also in the South Devon Area of Outstanding Natural Beauty (AONB). The site has no other statutory designations.

Detailed Proposals

The application seeks planning permission for the construction of two detached properties, each with integral double garages. The dwellings would be single-storey at the higher part of the site, and two storeys in height at the lower part of the site. The scheme proposes a formal landscaping scheme, as well as the re-instatement of the wall at the perimeter of the site. Each property would be served by a driveway and a garage.

The 2 properties would appear identical. Their maximum dimensions are to be 14 metres wide x 12.5 metres deep x 6 metres high (flat roof finish). The rear of the properties would be 3.5 metres high (the properties being built into the slope).

The properties would be finished in natural stone / timber and render on the northern (road facing) elevation), with render / timber on the remaining 3 elevations. Each property would have an impermeable built footprint of 143 square metres (286 square metres in total). The site design incorporates an on-site soakaway.

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

Torbay Drainage:

No objection

“Further to your letter dated 19th November 2018 regarding the above planning application I would like to make the following comments:

1. The development lies within Flood Zone 1 and the developer is proposing to discharge his surface water drainage to a soakaway.
2. The developer has undertaken infiltration testing in accordance with BRE365 and a design for the soakaway has been submitted which identifies 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, and providing the surface water drainage is constructed in accordance with the submitted design I have no objections on drainage grounds to planning permission being granted.”

South Devon AONB Unit:

No objection subject to planning conditions

“The application in its present form has the potential to compromise the adjacent Scheduled Ancient Monument (World War II Emergency Coastal Battery and remains of a Victorian practice battery at Battery Gardens).

The South Devon AONB Unit has a no objection to this application but request that conditions are placed on the development to limit light spill and that a CEMP (Construction Environmental Management Plan) is supplied prior to any on-site commencement.”

Torbay Highways:

No objections

“I have had a look on site and agree traffic on the approach to the site accesses, from around the bends is slow moving and the visibility splays are adequate, therefore we will not require speed survey readings.”

Torbay Arboriculture:

No objection subject to planning conditions

“Appraisal

1. My comments are based upon a site visit and review of the following supporting documents/plans referenced:
 - Landscape Plan (Eden, Nov 18)
 - Existing and proposed plans
 - Design and Access Statement
2. A review of the proposals shows the intended construction of two new houses with integral garages plus driveways.
3. The site has largely been cleared of vegetation with no trees now present that should constrain any development proposals. Branches from pine trees in nearby Battery Gardens overhang into the north side of the site.
4. The proposals shows the siting of the houses away from the overhanging pine trees. There should therefore be no conflict between the buildings and the trees. Also the shade patterns of these trees would be away from the new houses through the main part of the day (assessed according to BS5837:2012 Trees in relation to Design, Demolition and Construction). Branches would overhang onto the edge of the new driveways and consideration of these branches would have to be made for access routes for construction traffic. It would be appropriate to require a method statement to address the management of these branches, should consent be given, some pruning works maybe necessary (to cut back lateral branches).
5. The Landscape plan provides information and locations of proposed shrub, hedge and tree planting across the site. It would be appropriate to require more detailed information should consent be given, including reference to BS8545:2014, planting pit details, replacement of failed planting and a management plan.

Recommendation: No objection subject to conditions
Conditions:

Construction Specification / Method Statement

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed Construction Specification / Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall provide details of the consideration of neighbouring mature trees with regard to tree protection, construction exclusion zones and proposed pruning works. No development or other operations shall take place except in complete accordance with the

approved Construction Specification / Method Statement.

Reason: To ensure the protection of the trees in the interests of the amenity of the area.

Landscaping

Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:

- a) a scaled plan showing vegetation to be retained and trees and plants to be planted;
- b) proposed hardstanding and boundary treatment;
- c) a schedule detailing sizes and numbers of all proposed trees/plants;
- d) Sufficient specification to ensure successful establishment and survival of new planting according to BS: 8545:2014 Trees: from nursery to independence in the landscape – Recommendations.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with Policy C1 of the Local Plan.”

Torbay Conservation:

Comments

“Thanks for the new landscape plan. This is obviously a better scheme than the four-house plot, but looking at my comments to Gary of two years ago, I remain of the opinion that the green plot was a good transition landscape from the town

to the holiday area, certainly the new apartments in front of The Cove now encroach upon the Scheduled monument rather more than the older buildings. The difference between the Aerial Photos of 2010 and those of 2015, when the site was cleared of all trees shows how important the 'green gateway' was. As I said before:

"The clearance of the site alone shows how vulnerable the setting of the monument is, the west side of Fishcombe Road and south side of the lane leading down to the Battery Museum framed and reflected the green landscape of the scheduled monument – it now looks horribly exposed. The walls ought to be restored to their original height and the area re-planted and landscaped." You may feel that the only way to achieve a restoration of the walls and ensure a partial re-planting as shown of the Eden Design landscape is a permission."

Brixham TC:

Objection

"Recommend Refusal on the following grounds:

1 .B PNP The Natural Environment Policy E1.5

Unsympathetic development that will harm the wider landscape or introduce or increase light pollution will not be supported.

E1.3 Development within or impacting on the AONB must demonstrate that great weight has been given to conserving landscape and scenic beauty. As a minimum, development will comply with all policies, objectives and guidance from the South Devon AONB and National Trust.

2. B PNP BH5.3 and B5.4 Good design

BH5.3 A Central part of achieving good design is responding to and integrating with local character and landscape context as well as the built environment.

BH5.4 Development that fails to take the opportunities afforded by good design so as to respect or enhance the local character and quality of the area as to set out in the Design Statements, the Landscape Character Assessment or the Brixham Urban Fringe Landscape Assessments, or the way the area functions, or does not comply with the general and area specific design guidelines in the Design Statements, shall not be permitted.

3. Policy DE1 Design. Torbay Local Plan

The design is not in keeping with the surrounding area of the AONB. Giving its siting, scale, and design it is considered that the proposed development would result in unacceptable harm to the Character of the AONB. In addition, with the site being clearly visible from publicly accessible areas the proposal will have a

detrimental impact on the wider aesthetic of the area.

Protecting important local and longer distance views and having regard to the location and prominence of the site.

The design is detrimental to the character of the AONB and visual amenity of the area and its historic setting.

The development will result in a discordant and visually jarring development that is harmful to the visual amenity of the surrounding area.”

Summary Of Representations

4 x Letters of Objection received, citing:

1. Highways
2. AONB
3. Conservation Area
4. Impact on character of the area
5. Ecology
6. Over development
7. Sets Precedent
8. Impact on Drainage
9. Noise

Relevant Planning History

P/2016/1095 – Formation of 4 Dwellings. REFUSED 07.12.2016

P/2005/0015 – Erection of 2 Detached Dwellings with vehicular/pedestrian access (Renewal of Application P/2000/0108/RM). APPROVED 01.03.2005

P/2000/0108 - Erection of 2 Detached Dwellings (Renewal of Application 97.1556.RM)

P/1997/1556 – Erection of 2 Detached Dwellings. APPROVED 02.03.1998

P/1994/1594 – Erection of Two Dwellings (In Outline) Renewal of Application 92/0129/OA. APPROVED 08.02.1995

P/1992/0129 – Erection of Two Dwellings (In Outline). APPROVED 26.03.1992

P/1989/0030 – Erection of 2 Dwellings (Renewal of Outline Permission Reference Application Number 85.3366OA). APPROVED 22.03.1989

P/1985/3366 – Two Dwellings. APPROVED 22.01.1986

Key Issues/Material Considerations

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

1. Principle of Development
2. Visual Impact / Impact on the AONB / Impact on Heritage Assets
3. Amenity / Character / Over Development
4. Flood Risk & Drainage
5. Other Considerations (Highways / 5 Year Housing Land Supply / Ecology / Precedent / Brixham Peninsula NP)

1. Principle of Development

The application seeks planning permission for two detached properties.

The Development Plan for the purposes of this application is the adopted Torbay Local Plan. Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area (as is the case in this instance), will be supported subject to consistency with other policies in the Local Plan. The site is within the built-up area of Brixham (being identified as such in the adopted Torbay Local Plan).

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 emerging Brixham Peninsula Neighbourhood Plan (BPNP) excludes the whole of 190 Northfields Road (both the existing property and its garden) from within the Settlement Boundary, although the site is adjacent to it. Policy E2 of the BPNP does not support development beyond the settlement boundary (it suggests all land beyond settlement boundaries is 'open countryside'), unless it meets with the subsequent criteria. The proposed development at the site would not meet those criteria.

Although policies of the emerging BPNP do not support the proposed development, the BPNP has not yet been adopted and therefore does not yet form part of the Development Plan. Whilst the policies contained within the BPNP are a material consideration, the weight to be afforded to them before the BPNP is adopted is less than that to be afforded to relevant policies in the Torbay Local Plan.

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

2. Visual Impact / Impact on the AONB / Impact on Heritage Assets

The National Planning Policy Framework (NPPF) states 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 SS8 of the Torbay Local Plan seeks to ensure developments would maintain and conserve the character of an AONB, and where possible enhance that character. Policy SS10 of the Torbay Local Plan seeks to ensure developments maintain and where possible enhance heritage assets and their settings.

Objectors have raised concerns about the proposal's impact on the AONB, the nearby conservation area, the character of the area in general, and about the proposal amounting to an over development of the site.

It is noted that in 2005, planning permission was granted for two detached properties (of comparable size / mass) to the two properties proposed in the current application.

Paragraph 172 of the NPPF (July 2018) states that:

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.”

As the then proposal was deemed acceptable in the AONB in 2005, and has not received an objection from the South Devon AONB Unit in relation to the proposed scheme it is considered as acceptable in this case, with the proposal being for two detached properties in the same site, with those properties being of a similar scale and mass. In addition, the site, if visible from other parts of the AONB (it is currently screened behind a mature coppice of pine trees that would require separate permission for removal (they are within the Brixham Town CA)) would be set against the more prominent urban backdrop of Brixham, so being seen in an appropriate context.

The site is not within any identified heritage assets. It is noted that the land to the north and east is identified as the Battery Head Scheduled Ancient Monument (SAM) and the edge of Brixham Town Conservation Area (CA).

The Torbay Conservation Officer does not raise any objections and has implied the scheme could help deliver a return to the green setting (in part) with the restoration of the boundary wall and landscaping as proposed. These elements

can be secured by way of planning conditions and, as such, the scheme is considered to be acceptable from a heritage perspective. It is considered that the proposal would not result in any harm to heritage assets.

The site and associated development seeks to ensure the stone wall to the east is re-instated, as well as a comprehensive planting / landscaping scheme. In this instance, levels of harm are not considered significant, and any impact is tempered by the proposed boundary enhancements and delivery of two units.

The objectors have also suggested the scheme is out of character with the area and would qualify as over development. In this instance, being set below the properties to the south, and partially set into the slope of the site, and back from the highway, as well as having a backdrop of higher residential properties, it is considered the character of the area would not be adversely affected (it is accepted it would change but that such change is measured and not considered unacceptable given the nature of the proposal, the site, and its surroundings).

Given its siting, scale, and design, together with the site's planning history and that the AONB Unit have not raised an objection in terms of the proposals impact on the AONB, it is considered that the proposed dwellings would not result in unacceptable harm to the character or visual amenities of the locality or the AONB, subject to the implementation of the submitted landscape plan and scheme and lighting conditions.

The proposal is considered to be in accordance with Policies DE1, SS8 and SS10 of the Torbay Local Plan, and the guidance contained in the NPPF.

3. Amenity / Character / Over Development

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

The design of the properties is such that first floor windows between each other and Cove Apartments to the south west of the site are positioned at high levels ensuring no direct lines of sight. The position of the properties, below the ground level of those properties to the south on Northfields Lane ensures again that there are no direct lines of sight between properties.

The two dwellings would have first-floor balconies on their western elevations, but with the lack of fenestration on first floors on the eastern elevations of both properties would ensure no lines of sight between properties from these balconies. The relationship between the balcony of the property to the western side of the site, and Cove Apartments is such that there would be no lines of sight, due to the lack of fenestration on the holiday apartments to the west (Cove Apartments) / and proposed landscaping along the boundary between the site and Cove Apartments.

Objections have suggested noise impacts would justify refusal. In this instance, the scheme is for 2 residential properties in a predominantly residential area of Brixham. It is accepted that there may be noise associated with the construction phase, but by its very nature, development will cease after a limited duration, so would qualify as temporary. As such, the impact of noise from development is not considered sufficient to warrant a recommendation of refusal on such grounds.

Given their siting, scale, and design (2 storey, flat roofed properties) it is considered that the proposed development is suitably screened from neighbouring properties, and would not result in overlooking, over bearing effects, or a loss of privacy. In addition, the density of development is not considered excessive in this instance (the outdoor space being not dissimilar to that of similar sized properties).

The proposal would provide an adequate standard of accommodation and amenity space for the enjoyment of the proposal's future occupiers.

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

4. Flood risk / Drainage

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.

Objectors have raised concerns about the proposal's impacts on drainage arrangements.

The proposal would increase the impermeable built footprint at the site by 286 square metres. The site is in Flood Zone 1. The FRA states that surface water would be disposed of by way of SUDS. The Torbay Drainage Matrix states there would be no objection on drainage grounds subject to the inclusion of a drainage planning condition (SuDS).

This interpretation has been supported by the Torbay Drainage Engineer who has not raised an objection.

Foul drainage would be directed to mains sewer and there are no known issues in the locality indicating that the proposed development could not be accommodated by the existing infrastructure.

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

5. Other Considerations

Highways

Policy TA3 of the Torbay Local Plan identifies parking requirements for various forms of development. Appendix F of this Policy provides further details in relation to parking provision.

The scheme proposes 2 off street parking spaces per unit. Appendix F states that 2 parking spaces would be expected. In this instance, with the provision of 2 spaces each, the requirements of Appendix F / Policy TA3 would be met.

In addition, the Torbay Highways Officer has stated that evident speeds on Fishcombe Road are such that they self-regulate with maximum speeds of circa 10 mph attainable.

It is accepted that concerns relating to accidents and traffic speeds on nearby roads have been raised by objectors, and that additional traffic would only worsen this. Evidence has been provided that details accidents, principally those at the junction of North Furzeham Road / Northfields Lane. It is accepted that there have been accidents but these cannot be attributed to a development not at this junction. In addition, although anecdotal evidence has been submitted suggesting people driving the wrong way along the one-way system, there are clear road markings and signage directing people / vehicle users in relation to the one-way system. The scale of development and the amount of traffic it would generate is not considered sufficient to result in unacceptable additional harm highway safety or amenity.

5 Year Housing Land Supply (5YHLS)

The Council cannot presently demonstrate a deliverable 5 year housing land supply, as required by paragraph 47 of the National Planning Policy Framework (NPPF). At present, the Council it estimated to have a 3.96 year availability of housing land, as evidenced in the 'Torbay Council - Five Year Land Supply Statement (December 2017)'.

The site could deliver 2 new dwellings and as such would be defined as a 'Windfall' site and would contribute to the under-supply of housing in Torbay.

Ecology

The application has been supported by a Preliminary Ecological Assessment (PEA).

Submitted objections have cited impacts on ecology as a reason for refusal.

The PEA does not identify protected species but does propose recommendations

/ good working practices associated with construction. In this instance it is suggested the scheme would accord with Policy SS8 in that there would be no impact on protected species or habitats, but in the interests of ensuring good working practices are followed, the development should be conditioned to be carried out in accordance with the PEA.

Knowing the above, it is considered that the scheme accords with the objectives of Policies NC1 and SS8 of the Torbay Local Plan (that seek to ensure species and habitats are suitably protected).

Precedent

Objections received have suggested the scheme should be refused on the grounds that it would, or could, set a precedent. As the proposals accord with the provisions of the Development Plan currently in force, this is not a material planning consideration.

Brixham Peninsula Neighbourhood Plan

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 Policies E1.5 (Landscape beauty and protected areas) – which seeks to ensure development should not harm a protected landscape, including its dark skies and tranquillity; BH5.3 (Good design and the town and village Design Statements) – which seeks to ensure schemes are of a good design that integrate and respond to the local character; and BH5.4 (Good design and the town and village Design Statements) - which states that planning permission should be refused for development that is of poor design that fails to take opportunities to improve local character.

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. The proposal is considered to comply with this policy as the scale and bulk respect the characteristic of the adjacent flat roofed properties (Sea Cove Holiday Bungalows), and minimise height so not breaking the building line to the rear (elevated properties on Northfields Lane), resulting in an acceptable design and appearance, that has the support of the South Devon AONB Unit (subject to the planning conditions as proposed). The proposal is therefore considered to accord with the emerging Brixham Peninsula Neighbourhood Plan Policies.

Local Finance Considerations

S106/CIL –

S106:

Not applicable.

CIL:

The site is identified as being in Chargeable Zone 2 in the adopted Torbay CIL Schedule (2017). The proposal is for fewer than 3 units. As such 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 Development Plan and all other material considerations.

Condition(s)/Reason(s)

01. Drainage

In accordance with the submitted flood risk assessment received 13.08.2018, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

02. Ecology

The development hereby approved shall be carried out in accordance with the recommendations detailed in the approved Preliminary Ecological Appraisal (Green Lane Ecology – 01.05.2018).

Reason: In the interests of ensuring good working practice, and habitat enhancement and in accordance with Policy SS8 of the Torbay Local Plan.

03. Construction and Environmental Management Plan (CEMP)

No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period of the development.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

04. Construction Specification / Method Statement

Prior to the commencement of any works on site (including demolition and site clearance or tree works), a detailed Construction Specification / Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This shall provide details of the consideration of neighbouring mature trees with regard to tree protection, construction exclusion zones and proposed pruning works. No development or other operations shall take place except in complete accordance with the approved Construction Specification / Method Statement.

Reason: To ensure the protection of the trees in the interests of the amenity of the area.

05. Landscaping

The development hereby approved shall be completed in accordance with the submitted Landscape Plan (drawing number CD/IHD/561-01). The landscape scheme, as detailed in the aforementioned drawing shall be implemented / completed within the first available planting season after the completion of construction / occupation of the two properties.

There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority.

Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to

enhance its setting within the immediate locality in accordance with Policy C1 of the Local Plan.

06. External Lighting

No external lighting shall be installed on site unless details of such lighting, including the intensity of illumination and predicted lighting contours, have been first submitted to, and approved in writing by, the Local Planning Authority prior to first occupation/use of the site. Any external lighting that is installed shall accord with the details so approved.

Reason: In the interests of neighbouring amenity and wider ecology in accordance with Policies DE3 and NC1 of the Torbay Local Plan.

07. Boundary Wall

Prior to the commencement of the development hereby permitted, details of the proposed works to the existing stone boundary wall, to be repaired and reinstated, shall be submitted to and approved in writing by the Local Planning Authority. The approved repair and reinstatement works shall be completed prior to the first occupation of the dwellings hereby approved and the stone wall shall thereafter be retained indefinitely.

Reason: In the interests of amenity and setting of nearby heritage assets, and in accordance with Policies DE1, DE3 and SS10 of the Torbay Local Plan.

08. Materials

No development shall take place until details of the proposed cladding materials (walls and roof) and openings 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.

09. Boundary Treatment

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.

10. Refuse Storage

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason:

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

11. Parking and Manoeuvring Areas

The dwellings hereby approved shall not be occupied or brought into use until the parking spaces, including garages, detailed on the approved plans have been provided. The garages shall be retained for the sole purpose of vehicle parking.

Reason:

In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

12. Permitted Development

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to the proposed dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, 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 DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

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

Relevant Policies

- DE1 – Design
- DE3 – Development Amenity
- DE4 – Building Heights
- SS3 – Presumption in Favour of Sustainable Development
- SS8 – Natural Environment
- SS10 – Conservation and Historic Environment
- SS13 – 5 Year Housing Land Supply
- ER1 – Flood Risk
- TA2 – Development Access
- TA3 – Parking Requirements
- NC1 – Biodiversity and Geodiversity

Application Number

P/2018/1118

Site Address

Former Torwood Conservative Club
28 Parkhill Road
Torquay
TQ1 2AR

Case Officer

Verity Clark

Ward

Wellswood

Description

Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18).

Executive Summary/Key Outcomes

The application proposes to demolish a section of the building to facilitate the formation of an off-road parking space. The proposal will also seek to install balustrading and gates along the front elevation and the replacement of the existing section of corrugated sheet roof with natural slate.

The application has been referred to the Development Management committee as objections have been received and as the applicant is a Ward Member.

The proposal is considered to be in accordance with Policies DE1, DE3, HE1, SS10, TA3, NC1 and ER1 of the adopted Torbay Local Plan 2012-2030 and the application is recommended for approval.

Recommendation

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding matters to be delegated to the Assistant Director for Planning and Transport.

Reason for Referral to Development Management Committee

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

Statutory Determination Period

The eight week target date for determination of this application was the 3rd January 2019. An extension of time to 15th February 2019 has been agreed to allow the submission of revised plans.

Site Details

The application site is the Former Torwood Conservative Club, 28 Parkhill Road, Torquay. The building is in commercial use and is Grade II listed. The site is also located within the Torquay Harbour Conservation Area.

Detailed Proposals

The application proposes to demolish a section of the existing building to facilitate the formation of an off road parking space. The proposal will also seek to install balustrading and gates along the front elevation and the replacement of the existing section of corrugated sheet roof with natural slate.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary of Consultation Responses

Conservation: This revised iteration of the simple car park scheme is a great improvement on the original: part-demolition of late 20C infill; protection of the north wall of the listed freemasons' lodge; replacing the corrugated roof with natural slate. Additionally the part-demolished façade is to be replaced a 'wrought-iron balustrade and gates'. Let us condition the slate, and the metal railings.

Highways: The new Highways Development Control Standing Advice for Minor Developments applies to this Application. Part of the Existing crossover will need to be reinstated to a full height kerb, under licence to the Highway Authority. There is a requirement for provision of secure and covered cycle storage for at least 2 cycles. To achieve a single garage and not lose any residential on street parking the applicant would need to reinstate half of the dropped kerb to a full height footway and have a Access line painted across the entrance of the single Garage, although the line is not enforceable and vehicles may park there. To

prevent this happening the other option is for the applicant to pay for a traffic order to install double yellow lines which are enforceable and would still retain the same amount of residential parking, but we cannot insist on this, it would be the choice of the Applicant if permission is granted.

Strategic Transport: No response.

Historic England: we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Community Safety: No objection.

Summary of Representations

Publication type: Neighbour notification letters/Site notice/Newspaper advert
3 objections have been received. Issues raised:

- Parking
- Description of development and past use of the site
- Highway safety and traffic flow
- Noise and air pollution
- Heritage

Relevant Planning History

P/2018/1119 Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Concurrent listed building application.

P/1986/1678 Extension Of Existing Lounge Bar Within Building And Relocation Of Exi Sting Beer Cellar And Bottle Store. Approved 16/09/86

P/1979/2441 Re-development to form Club Premises. Approved 31/10/79

P/1978/3358 Re-development to form club premises. Approved 15/01/79

Key Issues/Material Considerations

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

1. Principle of development
2. Visual impact and impact on heritage asset
3. Impact upon the amenity of neighbouring properties
4. Transport Issues
5. Drainage
6. Ecology

1. Principle of development

The proposal is for works to an existing commercial property. There are no Local

Plan policies indicating that the proposal is not acceptable in principle.

2. Visual impact and impact on heritage asset

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 SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses.

It should be noted that during the course of the application the proposal has been modified. The proposal originally sought to form a garage with a new opening in the existing building. Following concerns raised by the Conservation Officer the application has been amended. The proposal has been amended to seek permission to demolish a section of the building to facilitate the formation of an off road parking space. The proposal will also seek to install balustrading and gates along the front elevation and replacement of the existing section of corrugated sheet roof with natural slate.

The Council's Conservation Consultant has noted that the site of the club comprises part of the ground floor of the listed No. 1 Meadfoot Lane (NHLE No. 1292372), intervening 'key buildings', recognised in the Torquay Harbour Conservation Area Character Appraisal, and an area of infill. On the south side the infill butts up to, in a most unattractive manner, the listed Freemasons lodge (NHLE No. 1206823), whose north gable end was designed to be open and visible in the townscape. The area of the so-called former garage was always an open space pull in, accessible to vehicles and allowing access to the rear of the buildings; it was never a garage. The render front and corrugated roof, inimical to the listed building date the infill to the mid-20C. The pull-in area enclosed as it is now while not attractive is at least part-masked by the existence of a length of parking bay. Following the submission of revised plans the officer has noted that this revised iteration of the simple car park scheme is a great improvement on the original: part-demolition of late 20C infill; protection of the north wall of the listed freemasons' lodge; replacing the corrugated roof with natural slate. Additionally the part-demolished façade is to be replaced a 'wrought-iron balustrade and gates'. A condition requiring the submission of details of the slate, and the metal railings should be added.

In terms of visual appearance, the demolition of the section of building and replacement with a parking area with associated balustrading and gates and replacement of an existing section of roof with natural slate is considered to result in an improved visual appearance and an enhancement to the Grade II listed building within the streetscene of the Torquay Harbour Conservation Area. The historic fabric and character of the Grade II listed building will therefore be preserved. The proposal is therefore considered to accord with Policies DE1, SS10 and HE1 of the Torbay Local Plan. A Condition requiring the submission of a slate sample and details of the railings and permeable paving is recommended to ensure the visual appearance is acceptable.

3. Impact upon the amenity of neighbouring properties

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

The proposed parking space will be situated adjacent to the Masonic Lodge and is not considered to result in harm to the amenities of the adjacent occupiers by way of noise and disturbance due to existing vehicle parking in the area and the surrounding uses.

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

4. Transport Issues

Policy TA3 and Appendix F of the Torbay Local Plan provides guidance on the minimum size standards for a parking space. When accessed directly from the highway a space shall be a minimum of 3.2m x 5.5m to ensure the highway is not obstructed. The parking space meets this minimum required standard and would therefore provide an adequate parking space.

The Council's Highways Engineer has noted that to achieve a single parking space and not lose any residential on street parking the applicant would need to reinstate half of the dropped kerb to a full height footway and have a access line painted across the entrance of the parking space, although the line is not enforceable and vehicles may park there. To prevent this happening the other option is for the applicant to pay for a traffic order to install double yellow lines which are enforceable and would still retain the same amount of residential parking, but we cannot insist on this, it would be the choice of the applicant if permission is granted.

As such, a condition is recommended which will require the works to the highway, including the reinstatement of part of the dropped kerb, to occur prior to the use of the proposed parking space. This will ensure that only one on-road parking space is removed and this will be replaced with one off-road parking space. As the Council's Highways Engineer raises no objection to the scheme

the proposal is considered to be in accordance with Policy TA3 of the Torbay Local Plan. An informative is recommended to suggest that the applicant may wish to consider applying for double yellow lines from the highways department in line with the suggestion of the Highways Engineer.

5. Drainage

The proposal seeks to use permeable brick paving within the development. This is considered to be a sustainable form of drainage in accordance with Policy ER1 of the Torbay Local Plan.

6. Ecology

The application includes the demolition of a section of the existing building. A preliminary ecological assessment has been submitted in support of the application. The report confirms there is no evidence of bat use and no further surveys are required. There was no evidence of bird nesting activity in association with the structures however the ivy clad stone wall face behind the buildings offers good suitability for nesting activity by a variety of common bird species. The demolition of roof structures adjacent to this rock face therefore presents a risk of disturbance and potential harm to nesting activity. It is therefore recommended that a condition is added to ensure destructive works are avoided during bird nesting season.

With the addition of a condition the proposal is considered to be in accordance with Policy NC1 of the Torbay Local Plan.

Other Considerations

The Torquay 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 are Policy TH8 (Established Architecture). This policy requires 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. The proposal is considered to comply with this policy as the proposal will enhance the established characteristic of the streetscene. Policy TH10 (protection of the historic built environment) notes that alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. The proposal is considered to comply with this Policy as the proposal will enhance the existing listed building. The proposal is therefore considered to accord with the Torquay Neighbourhood Plan Policy.

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

Statement on Human Rights and Equalities Issues

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

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

EIA/HRA

EIA:

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

Conclusions

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

Condition(s)/Reason(s)

1. Prior to the replacement of the roof material, a sample or technical detail of the proposed tiles 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, and shall be retained as such thereafter.

Reason: In the interests of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

2. Prior to the installation of the permeable paving, a sample or technical detail of the proposed paving 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 and shall be retained as such thereafter.

Reason: In the interests of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

3. Prior to the installation of the railings hereby approved, a sample or technical detail of the railings 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, and shall be retained as such thereafter.

Reason: In the interest of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

4. The parking space hereby approved shall not be brought into use until a S278 agreement or Highway Crossing Licence has been entered into in order to secure the necessary works to the public highway. The works shall include the reinstatement of half of the dropped kerb to a full height footway and an access line painted across the entrance of the parking space. The works shall be implemented prior to the use of the parking space.

Reason: In order to ensure a suitable form of development in accordance with policies TA1 and TA2 of the New Torbay Local Plan 2012-2030.

5. Prior to the use of the parking space hereby approved, details of all proposed hard and soft landscaping shall be 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 four weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with policies DE1, SS10, HE1 and C4 of the Torbay Local Plan 2012-2030.

6. No site clearance or demolition works shall take place between 1st February and 31st August inclusive, unless a competent ecologist has

undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: In order to avoid damage to any breeding bird or its nest in accordance with Policy NC1 of the Torbay Local Plan policy 2012-2030.

Informative(s)

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

Relevant Policies

DE1 - Design
DE3 - Development Amenity
SS10 - Conservation and Historic Environment
HE1 - Listed Buildings
TA2 - Development access
TA3 - Parking requirements
NC1LFS - Biodiversity and Geodiversity_
C4 - Trees, hedgerows and natural landscape
ER1 - Flood Risk

Application Number

P/2018/1119

Site Address

Former Torwood Conservative Club
28 Parkhill Road
Torquay
TQ1 2AR

Case Officer

Verity Clark

Ward

Wellswood

Description

Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18).

Executive Summary/Key Outcomes

The listed building application proposes to demolish a section of the building to facilitate the formation of an off road parking space. The proposal will also seek to install balustrading and gates along the front elevation and the replacement of the existing section of corrugated sheet roof with natural slate.

The application has been referred to Development Management committee as objections have been received and as the applicant is a Ward Member.

The proposal is considered to be in accordance with Policies DE1, HE1 and SS10 of the adopted Torbay Local Plan 2012-2030 and is recommended for approval.

Recommendation

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding matters to be delegated to the Assistant Director for Planning and Transport.

Reason for Referral to Development Management Committee

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

Statutory Determination Period

The eight week target date for determination of this application was the 3rd January 2019. An extension of time to 15th February 2019 has been agreed to allow the submission of revised plans.

Site Details

The application site is the Former Torwood Conservative Club, 28 Parkhill Road, Torquay. The building is in commercial use and is Grade II listed. The site is also located within the Torquay Harbour Conservation Area.

Detailed Proposals

The application proposes to demolish a section of the existing building to facilitate the formation of an off road parking space. The proposal will also seek to install balustrading and gates along the front elevation and the replacement of the existing section of corrugated sheet roof with natural slate.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary Of Consultation Responses

Conservation: This revised iteration of the simple car park scheme is a great improvement on the original: part-demolition of late 20C infill; protection of the north wall of the listed freemasons' lodge; replacing the corrugated roof with natural slate. Additionally the part-demolished façade is to be replaced a 'wrought-iron balustrade and gates'. Let us condition the slate, and the metal railings.

Highways: The new Highways Development Control Standing Advice for Minor Developments applies to this Application. Part of the Existing crossover will need to be reinstated to a full height kerb, under licence to the Highway Authority. There is a requirement for Provision of secure and covered cycle storage for at least 2 cycles. To achieve a single garage and not lose any residential on street parking the applicant would need to reinstate half of the dropped kerb to a full height footway and have a Access line painted across the entrance of the single Garage ,although the line is not enforceable and vehicles may park there. To

prevent this happening the other option is for the applicant to pay for a traffic order to install double yellow lines which are enforceable and would still retain the same amount of residential parking, but we cannot insist on this, it would be the choice of the Applicant if permission is granted.

Strategic Transport: No response.

Historic England: we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Community Safety: No objection.

Summary Of Representations

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

7 objections have been received. Issues raised:

- Parking
- Description of development and past use of the site
- Heritage
- Visual appearance
- Impact on property values

Relevant Planning History

P/2018/1118 Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Concurrent planning application.

P/1986/1678 Extension Of Existing Lounge Bar Within Building And Relocation Of Exi Sting Beer Cellar And Bottle Store. Approved 16/09/86

P/1979/2441 Re-development to form Club Premises. Approved 31/10/79

P/1978/3358 Re-development to form club premises. Approved 15/01/79

Key Issues/Material Considerations

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

Impact on heritage asset

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 SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the

need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses.

It should be noted that during the course of the application the proposal has been modified. The proposal originally sought to form a garage with a new opening in the existing building. Following concerns raised by the Conservation Officer the application has been amended. The proposal has been amended to seek permission to demolish a section of the building to facilitate the formation of an off road parking space. The proposal will also seek to install balustrading and gates along the front elevation and replacement of the existing section of corrugated sheet roof with natural slate.

The Council's Conservation Consultant has noted that the site of the club comprises part of the ground floor of the listed No. 1 Meadfoot Lane (NHLE No. 1292372), intervening 'key buildings', recognised in the Torquay Harbour Conservation Area Character Appraisal, and an area of infill. On the south side the infill butts up to, in a most unattractive manner, the listed Freemasons lodge (NHLE No. 1206823), whose north gable end was designed to be open and visible in the townscape. The area of the so-called former garage was always an open space pull in, accessible to vehicles and allowing access to the rear of the buildings; it was never a garage. The render front and corrugated roof, inimical to the listed building date the infill to the mid-20C. The pull-in area enclosed as it is now while not attractive is at least part-masked by the existence of a length of parking bay. Following the submission of revised plans the officer has noted that this revised iteration of the simple car park scheme is a great improvement on the original: part-demolition of late 20C infill; protection of the north wall of the listed freemasons' lodge; replacing the corrugated roof with natural slate. Additionally the part-demolished façade is to be replaced a 'wrought-iron balustrade and gates'. A condition requiring the submission of details of the slate, and the metal railings should be added.

In terms of visual appearance, the demolition of the section of building and replacement with a parking area with associated balustrading and gates and replacement of an existing section of roof with natural slate is considered to result in an improved visual appearance and an enhancement to the Grade II listed building within the streetscene of the Torquay Harbour Conservation Area. The historic fabric and character of the Grade II listed building will therefore be preserved. The proposal is therefore considered to accord with Policies DE1, SS10 and HE1 of the Torbay Local Plan. A Condition requiring the submission of a slate sample and details of the railings and permeable paving is recommended to ensure the visual appearance is acceptable.

Other Considerations

The Torquay 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 are Policy TH8 (Established Architecture). This policy requires 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. The proposal is considered to comply with this policy as the proposal will enhance the established characteristic of the streetscene. Policy TH10 (protection of the historic built environment) notes that alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. The proposal is considered to comply with this Policy as the proposal will enhance the existing listed building. The proposal is therefore considered to accord with the Torquay Neighbourhood Plan Policy.

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

Statement on Human Rights and Equalities Issues

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

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

EIA/HRA

EIA:

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

development.

Conclusions

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

Condition(s)/Reason(s)

1. Prior to the replacement of the roof material, a sample or technical detail of the proposed tiles 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, and shall be retained as such thereafter.

Reason: In the interests of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

2. Prior to the installation of the permeable paving, a sample or technical detail of the proposed paving 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, and shall be retained as such thereafter.

Reason: In the interests of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

3. Prior to the installation of the railings hereby approved, a sample or technical detail of the railings 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, and shall be retained as such thereafter.

Reason: In the interest of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

Informative(s)

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

Relevant Policies

DE1 - Design

SS10 - Conservation and Historic Environment

HE1 - Listed Buildings

Application Number

P/2018/1136

Site Address

Curtilage Of 1 Laura Grove
Paignton
TQ3 1LL

Case Officer

Miss Emily Elliott

Ward

Preston

Description

Formation of dwelling & garage.

Executive Summary/Key Outcomes

The application site contains a large derelict garage and historically forms part the curtilage of No.1 Laura Grove, Paignton. The proposal seeks to form a detached, two-storey dwelling with an integral garage, to be accompanied by off-street parking space and an outdoor amenity area. The proposal is considered to be acceptable, having regard to the Local Plan and all other material considerations.

The application has been referred to Development Management Committee due to the number of objections that have been received.

Recommendation

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding matters to be delegated to the Assistant Director for Planning and Transport.

Statutory Determination Period

8 weeks. The determination date was the 18th January 2019.

Site Details

The site, curtilage of 1 Laura Grove, Paignton, is a detached residential property located on the corner of Laura Grove and Southfield Avenue. The site would have access from Laura Grove and would be sited next to Barcombe Lane. The site slopes down towards the southern edge of the site. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

Detailed Proposals

The proposal seeks to form a three bedroom dwelling with an integral garage in the curtilage of 1 Laura Grove, Paignton. The proposed dwelling includes an off-street parking space and outdoor amenity space. The proposal is two storey dwelling with the first-floor accommodation being located within the roof space.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary of Consultation Responses

Highways: The Highways Development Control Standing Advice for Minor Developments applies to this Application.

Drainage Engineer: No objections, condition recommended.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice
4 objections have been received. Issues raised:

- Loss of privacy
- Overdevelopment
- Internal and external space standards
- Traffic and access
- Sets a precedent
- Overbearing
- Parking standards
- Not in keeping with the local area
- Previous planning history
- Impact on local area
- Drainage
- Visibility
- Permitted Development Rights

Relevant Planning History

P/2004/0734: Erection Of Detached Dwelling With Attached Garage; Erection Of Detached Garage For Use By No 1 Laura Grove (As revised by letter and plan received 24/6/04). Refused 25/06/2004.

P/2004/1564: Erection of Detached Dwelling with Garage; Erection of Detached for Use by No. 1 Laura Grove (Revised Scheme) (as revised by plans received 15 October 2004). Refused 10/11/2004.

P/2005/0278: Detached Bungalow with Garage. Refused 23/03/2005.

P/2006/0339: Gateways Installed To End Of Brick Driveway. Approved 24/04/2006.

Key Issues/Material Considerations

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

1. Principle of development
2. Impact on the character and appearance of the streetscene
3. Impact upon the amenity of neighbouring properties
4. Quality of residential accommodation
5. Drainage
6. Transport Issues
7. Ecology
8. Other Considerations

1. Principle of development

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The site is located within an established residential area and is considered to be a sustainable location for such development being in relatively close proximity to services and public transport routes. The proposal is considered to be acceptable in principle.

It should be noted that previously, in 2004 and 2005, planning permission was refused for a new dwelling in the curtilage of No.1 Laura Grove, Paignton. The reasons for refusal include overdevelopment, impact on residential amenity, potential precedent. These concerns will be addressed in the body of this report.

2. Impact on the character and appearance of the streetscene

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.

Objectors have raised concerns that the proposal is a form of overdevelopment; it is not in keeping with the local area; and it would have a negative impact on the local area. Concerns have also been raised that permitting the proposal will set a precedent and that the proposal has not addressed previous planning concerns.

Planning permission has previously been refused on site for a new dwelling in the curtilage of No.1 Laura Grove, Paignton. Previous refusals have stated that a dwelling would be detrimental to neighbouring occupiers. Furthermore, that a dwelling would be detrimental to the streetscene and on the character of the area generally.

There is a somewhat mixed local character and pattern of development within the locality, although it is generally characterised by detached and semi-detached houses within spacious plots. The site has been vacant and cleared for a number of years. The proposed dwelling would provide an active frontage along the highway.

An adequate area of outside space would be provided for both the proposal and No.1 Laura Grove, and it is considered that the two properties that would result from the proposal would not appear cramped. The overall layout is considered to be consistent with the urban grain of the area and without detriment to the character and appearance of the locality. The general scale of development is considered commensurate with the locality when considering the mix of dwelling types in the area.

It should be noted that the site slopes down to the south and that the natural ground levels therefore fluctuate on site, however it is considered that the proposal positively addresses the topography and provides a dwelling of a reasonable size, scale and massing. A condition can be imposed to secure details of the proposed levels to ensure they are acceptable.

In considering the design, regard must be given to the surrounding streetscene where there is a mixture of house types and designs and therefore given the context of the area, the proposal is considered to be acceptable in terms of design and impact on the streetscene. It is considered that as there is no distinct house type or character that the proposal is in keeping with the local area. The proposal would have a traditional appearance, having a pitched roof, including hipped and gable features. Details of the proposed materials, boundary treatment, bin storage, and landscaping can be secured through the use of conditions. It is also recommended that permitted development rights be removed to prevent an over-development of the existing and proposed properties in future.

Given the proposal's siting, scale, and visual appearance, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with the NPPF and Policy DE1 of the Local Plan.

3. Quality of residential accommodation

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55 square metres for new dwellings. Internal floor standards are set out from the DCLG technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 102 square metres is required for a three bedroom two storey dwelling.

Concerns have been raised by objectors that there is insufficient outdoor amenity space. The proposed internal floor area for the proposed dwelling is 110 square metres and the useable outside amenity space would be around 123 square metres, which is well above the standards required by the Local plan. No.1 Laura Grove would retain over 100 square metres of outdoor amenity space.

It is therefore considered that an adequate standard of accommodation for the existing and proposed dwellings would be provided.

4. Amenity impact

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

The proposed dwelling would be located approximately 21 metres from No.1 Laura Grove and approximately 22 metres from No.18 Southfield Avenue.

The eastern elevation of the proposed dwelling will sit adjacent to No.18 Southfield Avenue's outdoor amenity space. The rear (eastern) elevation of the proposed dwelling will have one opening to the first floor and three openings to the ground floor. It should be noted that the opening to the first floor will serve the hallway on the first floor, which is not a habitable room. The three windows to the ground floor are two small windows which serve the hallway and a water closet and a large window which serves the lounge.

The rear elevation is approximately 13 metres from the rear boundary of the site. A condition will be employed to ensure that the first-floor window serving the hallway is obscurely glazed. The site benefits from dense vegetation between itself and No.18 Southfield Avenue with No.1 Laura Grove's garage also

providing screening. The proposed patio which would be accessed via the kitchen would have an obscurely-glazed screen conditioned to both the eastern and southern flanks to prevent, if necessary, any unacceptable overlooking into No.18 Southfield Avenue's outdoor amenity space. It should be noted that No.18 Southfield Avenue has a large amenity space and the site will only impact upon the end section of this with the most sensitive area of No.18 Southfield Avenue's outdoor amenity space being located some 20m away. A further planning condition will be added to secure the landscaping of the scheme which will provide natural screening between the site and the adjacent properties.

Concerns have also been raised with regard to permitted development rights. To prevent an over-development of the site and potential harm to neighbouring amenity, a condition is recommended to remove permitted development rights from the proposal. Concerns have also been raised by the occupiers of dwellings on the opposite site of the highway, however, it is considered that the proposal would not have a detrimental impact upon those occupiers given the nature of the proposal and the separation distances involved.

Whilst the nature of the proposal and its relationship to neighbouring properties is considered to be acceptable in terms of neighbouring amenity, given the change in ground levels between the site and neighbouring properties, a planning condition is proposed to ensure that ground and floor levels would be acceptable.

Given the proposal's siting, scale, and design it is considered that it would not result in unacceptable harm to neighbouring amenity in terms of privacy, outlook, or access to natural light, subject to the use of conditions. The proposal therefore accords with Policy DE3 in the Torbay Local Plan.

5. Drainage

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. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice. The Council's Drainage Engineer has reviewed the information submitted with the application and raises no objection to the proposed flood risk strategy and recommends a condition is employed to secure the means of surface water drainage.

As such, the proposal would comply with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

6. Transport issues

Policy TA3 of the Torbay Local Plan states that new dwellings should be served

by two car parking spaces. The proposal provides adequate off street parking provision and would therefore comply with Policy TA3 of the Torbay Local Plan. The parking space size requirements are set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces abutting the public highway requiring 3.2 metres by 5.5 metres to ensure that the vehicles does not overhang or obstruct the pavement or onto the public highway. Furthermore, the dimensions for a garage under Appendix F are 3.3 metres by 6 metres.

Concerns raised by objectors state that there is insufficient parking and a lack of on-street parking. Further comments also raise concerns regarding visibility when using vehicles on Barcombe Lane.

The Council's Highways Engineer has stated that the Highways Development Control Standing Advice for Minor Developments applies to this application. The proposal will remove one on-street parking space, however this loss is outweighed by the benefit of the proposal offering two off-street parking spaces. The proposal includes an integral garage and an off-street parking space. The proposed garage measures approximately 3.5 metres by 6.5 metres and the off-street parking space measures approximately 3.5 metres by 6 metres. The proposed driveway will have a 1 in 8 gradient which is considered acceptable when taking into account the Highways Development Control Standing Advice for Minor Developments. With regards to visibility and concerns arising around Barcombe Lane, planning conditions relating to boundary treatments on the northern and western boundaries can be sought to ensure that visibility is not unacceptably affected. Therefore, the proposal complies with Policies TA2 and TA3 of the Local Plan.

Conditions are recommended to secure a scheme of boundary treatment to ensure the walls at the entrance to the site do not exceed 1 metre in height on Laura Grove and on the northern boundary which abuts Barcombe Lane. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway.

7. Ecology

The site is a vacant parcel of land in the rear curtilage of No.1 Laura Grove, Paignton. The site has been cleared and would involve the demolition of a large derelict garage to the northern boundary of the site. An informative will be used with the consent to ensure that protected species are protected.

It is considered that the proposal would not have an adverse impact on ecology. The proposal is therefore considered to be in accordance with Policy NC1 of the Torbay Local Plan.

8. Other Considerations

5-year Housing Land Supply

The Council cannot presently demonstrate a deliverable 5 year housing land supply, as required by paragraph 47 of the National Planning Policy Framework (NPPF). At present, the Council is estimated to have a 3.96 year availability of housing land, as evidenced in the 'Torbay Council - Five Year Land Supply Statement (December 2017)'.

The site could deliver 1 new dwelling and as such would be defined as a 'Windfall' site and would contribute to the under supply of housing in Torbay.

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 is Policy PNP1(c) Design Principles. This policy 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 this policy as the design, height and density of the proposed dwelling, and the scale and bulk of the proposal is in keeping with the surrounding area. 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.

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

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.

Proactive Working

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

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

Condition(s)/Reason(s)

1. No development shall take place until a method statement for the construction of the development hereby approved has been submitted to and approved by the Local Planning Authority. The statement shall provide details of the management of material deliveries and where they will be stored; measures for minimising noise and preventing dust-drift; the times of construction on the site; and the management of parking provision for contractors working on the site. The development shall be carried out in accordance with the approved details.

Reason: This information is required prior to the commencement of the development as it will confirm how the construction process will be managed in the interests of highway safety and local amenity in accordance with policies TA1, TA2 and DE3 of the Torbay Local Plan 2012-2030.

2. No development shall take place until details of all proposed hard and soft landscaping 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 four weeks of the development being brought into use, and shall be

retained for the life of the development.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-2030.

3. Prior to commencement of any works above damp proof course level on the new dwellings, samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

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

4. 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.

5. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

6. Prior to the first use or occupation of the dwelling hereby approved the parking area and garage shown on the approved plan (Plan Reference '1842-5 (Inc OS-Garage & roof)') received 8th November 2018 shall be provided and laid out in accordance with the plans. Thereafter the spaces shall be kept permanently available for the purposes of parking for the residents of the dwelling.

Reason: In order to provide adequate parking provision, in accordance with Policy TA3 of the Torbay Local Plan 2012 - 2030.

7. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.
Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 Development Access and TA3 Parking Requirements of the Adopted Torbay Local Plan 2012-2030.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to either the proposed or existing dwelling within the application site, and no outbuildings or other means of enclosure shall be erected within the garden areas of either dwelling, with the exception of one ancillary structure each up to 10 cubic metres in volume, 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 DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

9. Prior to the occupation of the dwelling hereby approved, the first floor landing window in the eastern flank elevation of the development hereby approved shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. This window shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The window shall thereafter be permanently retained in that condition.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

10. Prior to the approved patio being brought into use, a 1.7m high obscure glazed privacy screen (to a minimum of Pilkington Level 3 or similar standard) shall be erected on the patio's eastern side, in accordance with the approved details, and shall thereafter be retained for the life of the development.

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

11. Prior to the commencement of the development hereby approved, the developer shall submit details of the existing and proposed site levels and

ridge, eaves and floor levels of the dwelling hereby approved, for the approval in writing of the Local Planning Authority. The submitted details shall be measured against a fixed datum and shall show the finished ground levels, eaves and ridge heights of surrounding properties. The development shall thereafter be undertaken in accordance with the proposed levels as approved.

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

12. In accordance with the submitted flood risk assessment received 8th November 2018, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

Informative(s)

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. Responsibilities of the applicant / developer.

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please

refer to published Natural England guidelines for protected species.

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

Relevant Policies

DE1 - Design

DE3 - Development Amenity

H1 - New housing on identified sites

ER1 - Flood Risk

TA2 - Development access

TA3 - Parking requirements

NC1LFS - Biodiversity and Geodiversity_

Application Number

P/2018/1213

Site Address

Ormonde Cottage
15 Newton Road
Torquay
TQ2 5DB

Case Officer

Mr Scott Jones

Ward

Tormohun

Description

Construction of Twelve 2-Bedroom Townhouses (resubmission of refused decision P/2017/0406).

Executive Summary

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

The proposal is to provide 12 dwellings, arranged in three mini-terraces. The dwellings are arranged over three floors which would provide 2-bed units with private amenity space at roof level. All properties would have a uniform internal floor area of 60.5sqm.

The design incorporates rendered walls with banded openings fitted with timber sliding sash windows and timber doors. There is metal balustrades enclosing small terraces and a rendered parapet enclosing flat roofs. The terraces are set relatively close to the front retaining wall with the highway and there is no on-site parking proposed.

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

The proposal presents units with habitable floor spaces that are significantly below the space standards set out within the Torbay Local Plan, presents limited provision of outdoor amenity space, and all units would be without parking facilities. This would present a poor residential environment for future occupiers. The proposal would unacceptably affect wider local amenity by increasing the demand for street parking and increasing the risk of danger to highway users in the area. Although a car-free development of 4 flats was approved by the Council in 2014,

the scale of the proposal before Members is far greater and the form of units (houses instead of flats) is also likely to create a more car-dependent development.

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

The proposal must provide two affordable housing units in order to accord with Local Plan policy, as the majority of the site is garden land. The applicant disagrees with this conclusion and considers that no affordable housing is necessary as the site should be considered 'brownfield' land.

It is concluded that due to the harm to the setting of the Torre Conservation Area, together with the level of conflict with policies within the Local Plan, the NPPF when taken as a whole, and the Referendum Version of the Torquay Neighbourhood Plan, the proposal is not considered acceptable on planning grounds notwithstanding the Council's inability to demonstrate a 5 year housing supply and the weight afforded broader public benefits of the scheme.

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

Recommendation

Refusal for the following reasons:

01. Poor design and visual impact, including harm to the setting of a heritage asset.
02. The creation of a poor residential environment for future occupiers of the dwellings.
03. Impact upon highway safety.
04. Impact on flood risk
05. The absence of a completed S106 Legal Agreement to deliver Affordable Housing.

Detailed reasons are provided at the end of this report. The final drafting of the reasons for refusal, and addressing any new material considerations that might come to light, to be delegated to the Assistant Director of Planning and Transport.

Statutory Determination Period

13 weeks - 7th March 2019.

Site Details

The site is the former residential plot of Ormonde Cottage, which was a relatively small detached dwelling that was demolished in 2016.

It is a wide, shallow plot that is elevated above Newton Road, where it is bounded by a high stone retaining wall which extends along Newton Road close to the junction with Barton Road. The height of the wall is approximately 4-5 metres. The site now sits with partial foundations showing to the west, and a shipping container and caravan sit in the eastern part of the site.

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

Generally, the character of development in the immediate area is mixed. To the south on the opposite side of Newton Road sizeable Victorian villas prevail, which are largely in hotel use. These are located in the Torre Conservation Area. On the northern side of Newton Road development is principally that of interwar properties of a more domestic form and scale and in a range of differing styles and characters. These are generally detached properties that are set back from the adjacent highway with parking to the fronts. The properties are largely in use as dwellings and small guesthouses.

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

Date of Officer Site Visit: 14.12.2018 and 04.01.2019.

Detailed Proposals

The proposal is to provide 12 dwellings arranged in three mini-terraces, where each terrace contains four properties.

The dwellings are arranged over three floors. On the ground floor level there is one bedroom, at first floor level there is a lounge/kitchen, and at second floor level there is another bedroom. All properties have a uniform internal floor area of 60.5sqm.

The elevation treatment is render with a banding detail around the windows and doors. Each property has a narrow terrace to the front at ground floor and a narrow balcony above at first floor, enclosed by metal railings. The windows are timber sliding sash and the doors are timber. The roofs are flat set behind parapets.

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

In terms of external amenity space each dwelling has small terraces off the front elevation at ground and first floors, and there is communal space shown to the sides and to the rear of the western terrace.

There is no on-site parking proposed.

The proposal is similar in layout, massing and height to a scheme refused by the Authority in 2017, which had a more modern design concept with render and panelling with the upper floor clad in zinc with roof terraces.

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

*The Torquay Neighbourhood Plan has recently completed its Independent Examination. Full Council resolved in November 2018 that the Plan should proceed to Referendum. 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

Affordable Housing Team:

Affordable Housing policy in the adopted Torbay Local Plan indicates that for a scheme of 12 dwellings 20% of the units within the greenfield (former garden) area of the site should be affordable units. This equates to 2 units of affordable housing. In the absence of evidence that demonstrates that affordable housing cannot be provided on-site a proposal that does not secure 2 affordable dwellings is contrary to adopted policy and is not supported.

Heritage advice:

The site is outside of the designated Torre Conservation Area but clearly is of significance in terms of the setting of the Conservation Area.

The intensity of the proposed scheme in its revised form (from the 2017 proposal) will not enhance the setting of the Conservation Area but will still introduce a form and style of development which is out of keeping with the locality. The use of a flat roofed form and mass of the units is clearly at odds with the street scene which is characterised by pitched roofs or varying scales of a generally more elegant form. The proposed building line stands forward of the immediate neighbouring building to the west which will serve to expose the flat roof form of the units to the detriment of the street scene.

Whilst the elevational treatment seeks to reflect some of the period architecture in the locality, the terraced forms and small unit size do not appear to lend themselves to the fenestration proposed and the results tend to emphasise the poor proportions of the building and cramped nature of the development, in stark contrast to the generally well-proportioned buildings located in the Conservation Area opposite

It is considered that the previous refusal reason has not been adequately resolved and the reason should stand.

Strategic Planning Team (incorporating Highway Authority comments):

Object to the scheme. Previous concerns have not been addressed. The site is on a main bus route and close to Torre Station, nevertheless it is not in the town centre. 12 dwellings will inevitably lead to additional on street parking on Newton Road or nearby side roads. This is likely to create congestion and potential community conflict over parking. In addition it has not been demonstrated how waste collection will not impact pedestrian movement in terms of 12 bins within the footway, and how highway movement would not be impacted, in terms of there being no obvious space for a collection vehicle adjacent to the site, on what is a busy strategic route. It is considered that the proposal is contrary to Policies, SS6.2, TA1, TA2, TA3 and DE1 of the Torbay Local Plan and Appendix F of the Torbay Local Plan.

Drainage Engineer:

Due to the topography of the site infiltration drainage will not be feasible and this is agreed. Torbay is within a Critical Drainage Area and the applicant must demonstrate that the surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the development for the critical 1 in 100 year storm event plus 40% for climate change. This has not been shown. Before this planning permission can be granted the applicant must supply details to ensure that the risk of flooding would not be increased.

South West Water:

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

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

Police Designing out Crime Officer:

Previous concerns raised in regard to the previous scheme are still relevant. It cannot be assumed that residents from the proposed development will prefer to walk, cycle, or use public transport over the use of owning a private vehicle, and it is not possible to predict the exact number of vehicles that the proposal is likely to attract but given that each dwelling has 2 double bedrooms it is realistic to assume that each dwelling could attract a minimum of 2 vehicles, thus greatly introducing an increase in the number of vehicles and movement to the immediate area and placing additional demand on the local highway in terms of parking. There is a concern that this has the potential to create conflict locally amongst residents, which could escalate to criminal activity, fear of crime and/or unacceptable or aggressive behaviour due to safety and vehicle parking related issues. The blank walls will create large concealed areas which is a concern and a lockable gate at street level is not recommended, as it is the movement thereafter and safety of persons using the cycle/waste store etc that is a concern.

Community Safety Team:

No objection subject to a condition requiring the submission and approval of construction management plan in order to control the impact of the construction phase on adjacent occupiers.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice/Newspaper

advertisement

22 representations have been received, 21 objecting to the scheme and one in support.

Issues raised include:

- o Similar issues to the previous scheme that was refused by the Council
- o Overdevelopment
- o Impact upon the conservation area as the buildings relate poorly to the context.
- o Lack of parking and impact upon the highway
- o Loss of privacy
- o Overshadowing
- o Visual impact
- o Does not respond to the buildings and character of the area
- o Construction impacts on the busy highway
- o Impact on wildlife
- o Impact on retaining walls
- o Poor access for occupiers
- o Too large for the context
- o Noise and disturbance from use of the roof terraces
- o Impact upon the historic property the "Knoll".
- o Drainage impacts
- o Development of garden space contrary to national policy.
- o Will impact upon the quality of adjacent holiday accommodation.

The supporting letter raises that it will provide much needed housing in a sustainable location, and puts the site to its best use.

Relevant Planning History

Pre-Planning Enquiries:

DE/2016/0468: 12 Dwellings - not supported

Planning Applications:

P/2017/0406: Construction of 12x 2-bed dwellings: Refused 13.12.2017

P/1988/0452 : Erection of 1 dwelling: Refused 21.04.88.Subsequent appeal dismissed.

P/1988/2785: Erection of detached house; Approved 17.02.89

P/1990/0500: Erection of 2 dwellings; Approved 15.05.1990

P/1995/1063: Renewal of above. Refused, subsequent appeal dismissed 17th

March 2003.

P/2011/0272: Erection of 4 flats (in outline): Withdrawn.

P/2012/1231: Erection of 4 Flats (in outline): Approved. 17.09.2014

Key Issues/Material Considerations

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

1. Principle of residential development

Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area (as is the case in this instance), will be supported subject to consistency with other policies in the Local Plan.

Considering the context, where the site held a dwelling until relatively recently, and appreciating that it sits in a sustainable location in an area with an established residential character, the principle of some form of residential development is considered acceptable. The acceptability of the proposal for 12 dwellings as submitted is therefore considered to hinge on whether the extent and form of development is appropriate when considering relevant Local Plan policy guidance, national guidance, and the emerging Referendum Version of the Torquay Neighbourhood Plan, with the key issues considered in more detail below. However in strategic terms the principle of a residential use of the site is supported in accordance with the aspirations of Policies SS1, SS11 and SS12 of the Torbay Local Plan.

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

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

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

The proposal presents a series of three mini terraces, each approximately 17.5

metres wide with 6 metre wide gaps between them. The scale is three storeys under a flat roof and the form and detail appears to seek to mimic elements of Victorian development in the area, where the walls are rendered with banding strips and banded openings accentuating the windows and doors, which are timber sliding sash and timber panelled. The flat roof is metal seamed and concealed by a parapet.

In terms of the general form of development, terraces are not characteristic of this section of Newton Road. The northern side on which this plot sits is interspersed with loosely arranged dwellings that were built on the urban fringe in the interwar period. These are nearly all detached buildings and set back from the highway. Considering the context a formal terrace arrangement as proposed is considered to respond poorly to the prevailing local character and the presentation, in such a prominent roadside location, would jar considerably with the prevailing form. It is clear that the footprint of the development affords limited space to the front and around the buildings, which is also at odds with the defining local character where buildings are set within garden plots and generally set further back from the edge of the highway. When considering the extent of the built footprint and the limited extent of space around the buildings the proposal is considered to clearly overdevelop and cramp the plot, to an extent that is out of keeping with the defining character of the area. The previous dwelling, with its long linear side garden, responded to the narrow depth of the plot by affording much needed space to the side for amenity purposes. The scheme fails to provide any notable visual relief around the buildings, unlike the previous arrangement or previous consented scheme.

In terms of general form and massing the presentation of three-storey flat-roofed buildings in such close proximity to the highway will present a development that clearly jars with its context and mimicking elements of the local built vernacular does little to positively address the harm borne by the siting, massing and arrangement of the development as a whole.

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

In regard to emerging policy the proposal, for the reasons set out above, is considered contrary to Policy TH8 - Established architecture of the Referendum Version of the Torquay Neighbourhood Plan, which seeks that development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

3. Quality of the proposed residential environment

The proposal will provide two-bed dwellings set over three floors, each with an internal floor area of 60.5sqm. Policy DE3 provides size standards that all new development should accord with and although there is no standard for 2-bed dwellings over three floors the expectation for such a dwelling over two storeys is 70sqm. With consideration of the space afforded staircases it is a reasonable assumption that approximately 76sqm would be considered the guiding floor area necessary over three floors. The dwellings therefore fail to meet the size standards identified within the Torbay Local Plan and are considered to provide an unsatisfactory living environment for future occupiers. The limited internal space afforded each unit is also considered an indicator of an overdevelopment of the site.

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

In terms of pedestrian access, it is achieved via two access points and steps. The lowering of the ground level that is proposed reduces the number of steps necessary and, although it is not ideal for there to be an absence of level access, the arrangement is an improvement on the access to the previous dwelling and is better than that to adjacent properties.

In regard to ancillary facilities there is combined waste and cycle storage that is provided with level access, which would appear to provide satisfactory levels of storage, in-line with Policies DE1, W1 and TA3 of the Torbay Local Plan. There is however no designated collection area and it would appear that the waste facilities would resultantly have to be left on the adjacent footpath, which is not ideal on such a scale (12 wheelie bins, 24 recycling boxes and 12 food caddies), as it may present an obstruction to pedestrians and potentially a hazard to highway users.

In terms of outdoor amenity space Policy DE3 of the Torbay Local Plan identifies a guiding minimum of 55sqm for dwellings. There are small balconies/terraces off that provide private semi-private outdoor space and the proposed layout indicates pockets of communal space between and behind the buildings. It is uncertain that the limited areas between the buildings will afford pleasant and usable outdoor space when considering the oppressive nature of being enclosed on three sides with high walls. It is also uncertain how the amenity space to the rear of the western block, which is shown as being set at a higher level, will be accessed. On balance the proposal is considered to provide insufficient amenity space for the future occupants. The apparent lack of adequate space is also an indicator that the proposed development cramps and overdevelops the site.

To conclude the internal living environment would appear inadequate as it falls

demonstrably below the size standards set out in the Torbay Local Plan, and the proposal does not afford future occupiers adequate outdoor amenity space, and is therefore contrary to Policies DE1 and DE3 of the Torbay Local Plan.

4. Impact upon the amenity of neighbouring occupiers

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

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

The proposal sits at a similar height to the amended height of the 2017 scheme, where the agent had sought to respond to the concerns of neighbours by lowering the development by 1.8 metres through the course of the previous application. The development therefore now extends to a similar height to the previous dwelling and to within a metre of the height of the approved scheme for 4 flats. There is however a greater extent of development at this height and also there is a change in form to a flat roofed structure. In terms of impact the following is considered.

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

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

The impact upon the amenity afforded neighbouring occupiers to the rear of the central terrace is considered limited due to the border treatment and the adjacent land and land levels. The current proposal is 1.2m lower than the previous proposal due to the parapet being lower than the previous roof terrace enclosure. The result is the development will be neither overbearing nor prominent. Again there would be no overlooking due to the land levels.

The impact upon the amenity afforded neighbouring occupiers behind the easterly terrace is slightly more sensitive, as the land levels start to fall eastwards and the gardens are smaller with buildings in closer proximity to the proposed

development. From the submitted sections the current scheme will present a building approximately 2.8 metres above the adjacent garden level at the eastern end, compared to the previous scheme being approximately 4m above the garden level. The previous proposal in 2017 was considered unduly large in such close proximity to the border with an unacceptable level of impact upon the outlook of occupiers to the north towards the eastern end. The reduction in height presents a less dominant level of impact that is, on balance, considered an acceptable relationship.

For the reasons above the proposal is considered to comply with Policy DE3 of the Torbay Local Plan as it would not unduly impact the amenities afforded neighbouring occupiers.

5. Highway Safety and Parking

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

Policy TA3 and Appendix F of the Torbay Local Plan provides key policy guidance and for dwellings there is an expected requirement of 2 spaces per dwelling, although there is appreciation that this standard can be reduced in locations such as towns centres. Although it is not a town centre site it is reasonable to consider it a similar context due to proximity to the town centre and proximity to various sustainable transport options.

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

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

In terms of the context, street parking is somewhat limited and the area appears to already experience a high demand for street parking. In this context the provision of 12 dwellings with no parking is considered to present an unacceptable form of development. The context is likely to present a poor residential environment for future occupiers where available parking within close proximity of homes may be regularly unachievable. There is also concern that the absence of parking to support a development of this scale may also increase the likelihood of

conflict due to the added pressure on street parking. It is noted that the Police have objected to the scheme on these grounds and noted that local conflict on matters of parking can easily escalate to anti-social behaviour and crime. The added pressure on parking and vehicular movement could also increase the risk of danger to highway users.

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

This conclusion has taken into account the fact that a parking-free development of 4 additional units was granted consent in 2014 however, this decision was made before the new Local Plan was adopted in December 2015 and each proposal should be considered on its own merits. The 2014 consent was for 4 flats and this form of development, for a lower number of smaller units, sufficiently satisfied the Council that the parking and highway impacts were on-balance acceptable. However the judgment before Members is for a scale of development that demonstrably differs from the 2014 consented scheme with 12 family sized dwellings being sought, which is likely to have a far greater level of car ownership and use associated with it. The current proposal will, as a result of its scale and form, have an unacceptable impact upon parking and highway safety in this area.

The adjacent highway is also a major strategic route and there is some concern that the additional pressure for parking in combination with the creation of 12 dwellings that will require waste collection, may also present some conflict within the road network were there appears little scope to secure space for a collection vehicle near to the site. Linked to this the development in the absence of a collection facility at roadside the development is likely to result in a large number of waste bins being stored on the footpath which may present conflict with pedestrians and potentially road users.

For the reasons above the proposal is considered contrary to Policies SS6, TA2, TA3 and DE3 of the Torbay Local Plan as it fails to provide adequate vehicular parking, which is likely to impact upon local amenity and highway safety.

6. Drainage and flood risk

As Torbay is within a Critical Drainage Area the application needs to demonstrate that the surface water drainage design would not result in any increased risk of flooding to properties or land adjacent (for the critical 1 in 100 year storm event plus 40% for climate change) and the Local Plan Policy outlines a hierarchy.

Due to the topography of the site it is accepted that infiltration drainage will not be feasible. In such a circumstance attenuated and controlled discharge into the Public Sewer is an acceptable concept to follow. However the developer has failed

to show that a discharge to the Public Sewer can be achieved without increase to the risk of flooding to land or buildings adjacent. Certainty is required on this prior to the grant of consent.

It is noted that South west Water has no objection subject to the discharge being attenuated to a rate to be agreed and that buildings are not located within 3m of a Public Sewer. South West Water have provided information that clearly shows a Public Sewer running under the site and have said that development over/within 3m of a Public Sewer will not be allowed by them, but they have not objected on these grounds

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

7. Ecology

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

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

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

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

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

8. Other Considerations

5 year housing supply

The Council has between around 3.8- 4.5 years' housing supply based on an assessment at December 2018.

Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay, or the granting of permission where there are no relevant development plan policies or where the most important policies are out-of-date. A lack of a demonstrable 5 year housing supply principally renders the most relevant policies of an otherwise up-to-date development plan out-of-date.

In such circumstances, permission can only be refused (according to the NPPF) according to two tests-

- 1) There are specific policies in the NPPF that provide a clear reason for refusal, or
- 2) The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (when assessed against the Framework as a whole)

This presumption in favour is often referred to as the 'tilted balance'.

It must be remembered that whilst the NPPF is a material consideration, it has no power to supersede an adopted development plan. However it does set out clearly that decision makers must give significant weight to housing supply considerations.

Notwithstanding the above as the proposal is considered to cause less than substantial harm to a heritage asset the proposal should be considered without using the 'tilted balance', as laid out Paragraph 11 of the NPPF. The benefits of the scheme are still relevant as a material and the provision of 12 homes would in some way help address the lack of a 5 year housing supply and the public benefit of this should still be afforded due weight in the decision making process. In the absence of a 5 year housing supply these are important considerations and must be weighed in favour of the development.

Torquay Neighbourhood Plan

The Torquay 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.

Relevant policies for this application are:

Policy TS1 (Sustainable Development):

The Torquay Neighbourhood Plan provides a framework which contributes to the achievement of sustainable development in Torquay. Development proposals should accord with the policies contained in the Torquay Neighbourhood Plan,

where relevant, unless material planning considerations indicate otherwise.

Policy TH8 (Established Architecture):

This policy requires 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.

Policy TH9 - Parking facilities:

All housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

Policy TH2 - Designing out crime

New development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

For the reasons cited within this report there is considered to be substantial conflict with Neighbourhood Plan Policies.

S106/CIL and Affordable Housing -

Affordable Housing:

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

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

The submitted Design and Access Statement states that the applicant considers the plot to be brownfield land and as such no affordable housing is necessary as it falls below the trigger of 15 units as stated within Policy H2 of the Torbay Local Plan.

As the majority of the development is across the former garden area the principle of development within gardens is relevant. Planning guidance in relation to garden development has been subject to change in recent years from encouragement to maximise the use of suitable garden land to provide housing opportunities, to moves to resist 'garden grabbing'. The shift in terms of the sensitivity of development within gardens is articulated in the NPPF by land in built up areas such as residential gardens being specifically excluded from the definition of previously developed land (brownfield land).

It remains the opinion of officers that the scheme should secure affordable housing. As the proposal is considered unacceptable in other respects, this matter has not been taken further with the applicant.

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

S106:

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

CIL:

The application is for residential development in Zone 1 where the Community Infrastructure Levy (CIL) is £30 per square metre of additional gross internal floor area created. The accompanying CIL form states an additional net liable floor-space of 1300sqm for this development. The CIL liability for this development based on the above is £39,000. It is noted that the internal floor area of the scheme as indicated within the submitted scaled drawings suggests a total new floor area of approximately 726sqm, which would actually equate to a CIL liability of £21,780.

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

EIA/HRA

EIA:

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

HRA:

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

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

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.

Proactive Working

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. However in this case the proposal has been unable to satisfy the policy tests for the reasons stated in this report.

Conclusions

On balance, having considered the lack of a demonstrable 5 year housing supply and the benefits of the scheme it is considered that the harm of the proposal and the broad conflict with the Local plan, the NPPF when taken as a whole, and the Emerging Torquay Neighbourhood Plan, would demonstrably outweigh the benefits of the scheme.

It is considered that the proposal would be harmful to the streetscene, along with the setting, character and appearance of the Torre Conservation Area; would provide a poor residential environment for future occupiers; would result in unacceptable harm to the amenities of adjacent occupiers; and would have an unacceptable effect on highway safety. For these reasons, and given the lack of an acceptable drainage solution and unsecured affordable housing, the proposal is considered contrary to policies DE1, DE3, H1, H2, SS10, TA2, TA3, ER1 and ER2 of the Torbay Local Plan. It is therefore recommended that the application be refused.

Condition(s)/Reason(s)

01. The proposal, due to its massing, form and detailed design, which is exacerbated by its elevated position at the roadside, would result in a cramped and overdeveloped site that would present a visually discordant form of development which responds poorly to the prevailing local character, which would be harmful to the streetscene and setting of the Torre Conservation Area, contrary to policies H1, DE1 and SS10 the Torbay Local Plan 2012-2030.
02. The proposal, due to the limited internal floor areas of each dwelling, the lack of adequate outdoor amenity space, and inadequate parking facilities and limited street parking within the vicinity, would result in a poor residential environment for future occupiers of the dwellings, contrary to Policies H1, DE3 and TA3 of the Torbay Local Plan 2012-2030.
03. The proposal, due to the lack of provision of adequate off-street parking which is likely to exacerbate the pressure upon street parking in the area; the lack of designated bin collection storage at the roadside for multiple bins, which is likely to result in bin storage on the footway that may impede pedestrian movement and impact highway safety; and the lack of parking for waste collection vehicles on a major strategic route, would be detrimental to local amenity and highway safety, contrary to Policies TA1, TA2, TA3, DE1 and SS6 of the Torbay Local Plan 2012-2030.
04. The proposal, due to the lack of a detailed design for the management of surface water, fails to provide certainty that the risk of flooding to adjacent land and buildings would not be increased within a Critical Drainage Area, contrary to Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.
05. The proposal, in the absence of a completed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS8 - Natural Environment
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SDT1 - Torquay
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements

C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities

Application Number

P/2018/1214

Site Address

Roselands County Primary School
Lynmouth Avenue
Paignton
TQ4 7RQ

Case Officer

Miss Emily Elliott

Ward

Goodrington With Roselands

Description

Formation of new entrance & admin block & conversion of existing building.

Executive Summary/Key Outcomes

This planning application is for the formation of a new entrance block for both staff and pupils of Roselands County Primary School, which would provide toilets, offices and a staffroom. The proposal also includes the conversion of an existing building to form a new classroom.

The proposal is considered to be acceptable in terms of the principle of development, visual impact, development amenity, highways and flood risk. Consequently, the proposal meets Local Plan policy requirements.

Recommendation

That planning permission is granted, subject to the conditions detailed below and the completion of a legal agreement. The final drafting of conditions; the completion of a legal agreement to secure necessary funds towards investigating the implementation of a 20mph zone for the Roselands residential area; 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 proposed development is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received an objection from a neighbour, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

8th February 2019.

Site Details

The application relates to Roselands County Primary School, Lynmouth Avenue, Paignton.

Detailed Proposals

This planning application proposes the formation of a new entrance for both staff and pupils of Roselands County Primary School, which will include an administration block providing toilets, offices and a staffroom. The proposal also includes the conversion of an existing building to form a new classroom.

The proposed single-storey, flat-roofed extension would be approximately 22 metres in length and is L-shaped with the width of the proposal extending from 5 metres to 10 metres.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary of Consultation Responses

Highways Engineer: There are no Highway technical issues, but as Future Planning will lead on this, there may be an opportunity to look at changing the parking restrictions in the surrounding area if possible, as there are issues with the existing restrictions.

Highways Department: Obtained member approval for the implementation of a 20mph zone for the Roselands residential area, which would include the area of the school. Therefore a contribution towards the implementation of a 20mph zone (which may also include some parking restrictions) should be provided via S106 agreement (this would be up to approximately £4000). We would like contributions to a 20mph zone in this area which may also include parking restrictions. I cannot give any sort of overall cost as this has only just been discussed now, but may have more details in due course.

Strategic Transport Officer: I consider there to be two key issues. One is the parking on site for staff, the other is the impact of additional pupils at drop off and

pick up times. Neither necessarily need to prevent the application being approved but consideration must be given to the impact and updating the travel plan is essential. I do not consider it would be appropriate to increase staffing numbers further than proposed, or pupils, unless it is demonstrated through effective management of the travel plan that it can be achieved.

Staff Parking

As above, the loss of two spaces is a concern. However, it is noted that the actual on site arrangement may differ from the layout as drawn. I would not have expected there to be a need to increase parking provision for one additional member of staff, but to lose at the same time typically means that there is going to need to be a step change in travel behaviour of staff. This can be achieved through effective implementation of the travel plan, which must be updated to reflect the current position but also will require strong leadership and ownership of the document to ensure it is effective. The travel plan's aims and targets will need to reflect the need to change behaviour.

Pupil drop off/pick up

This impacts on the surrounding roads and it has been noted in previous comments that the Council is seeking to install a 20mph zone around the site. The purpose of this is to improve safety for all, particularly the pupils but it will also need the cooperation of the school and parents to ensure that the restrictions on parking and speed are adhered to and that car journeys are only being used as the last resort. Again the travel plan, alongside effective leadership and ownership of it, will be the key. The implementation of a 20mph scheme will be less effective without cooperation from the school to help manage travel behaviour and support health and wellbeing of pupils (and staff). The proposal will add to the congestion in the surrounding residential roads (Lynmouth Avenue, Porlock Way, Mena Park Close and Roselands Drive) during peak hours at the beginning and end of the school day. It is evident that there is already fairly high levels of on street parking, in the adjoining cul-de-sacs. My colleagues in the Highways Team have already got member approval to investigate the implementation of a 20mph zone for the Roselands residential area, which would include the area of the school. Therefore a contribution towards the implementation of a 20mph zone (which may also include some parking restrictions) should be provided via S106 agreement.

Travel Plan

This must be updated and must be prepared by the school for the school. It is not appropriate for a third party to prepare a travel plan without input and ownership from the school staff. The document could have pupil input as well as staff and others. The travel plan must clearly set out the targets and how these will be achieved, the targets must be SMART. The Travel Plan should be refreshed to set out opportunities for 30% modal shift for pupils, staff and visitors, with SMART targets and monitoring regime(as per Policy TA1 Transport and Accessibility and Policy TA2 Development Access); the achievement of targets

could be phased over, say three years.

Sustainable Travel

Improvement to on-site sustainable travel facilities is key. For instance, can staff park a bike away from pupils to avoid risk of accidental damage? Do staff have facilities to change on site and for storage of clothing? Is there a specific element of the curriculum at the school that targets health and wellbeing and encourages active travel? These can all be elements that can feed into the travel plan. Torbay Local Plan Policy TA3, Appendix F seeks the provision of secure covered cycle storage (1 per 10 students) plus 1 car parking per 2.5 members of staff. The School may consider providing alternative scooter parking for pupils. Ideally the car Parking provision would include provision of disabled parking space(s)(10%) and an electrical car charging facilities.

Contribution

Where there has been an internal application previously, it has not be appropriate to require a financial contribution through an agreement. It is appropriate to say that there is a need for the works to be carried out and that financial support for the implementation will be necessary.

Summary Of Representations

The application was publicised through a site notice and neighbour notification letters. Eleven neighbour notification letters were sent to those neighbours which the development could affect. One objection has been received. Concerns raised:

- Traffic and access
- Congestion

Relevant Planning History

P/2014/0478: Extension to existing staff room. Approved 23/06/2014.

P/2013/1096: Extension to existing school and removal of existing demountable classroom unit. Approved 29/11/2013.

P/2013/0626: Extension of existing hardstanding school playground and erection of 2.4m boundary fence. Approved 14/08/2013.

P/2012/0503: Installation of mobile classroom. Approved 20/07/2012.

P/2011/1108: Installation of solar panels on roof(s) of building(s). Approved 10/11/2011.

P/2010/0190: Formation of new classrooms, resource rooms with associated ancillary facilities. Approved 21/04/2010.

P/2005/0570: Security Fence To School Boundary. Approved 19/05/2005.

P/2003/0937: Erection Of Nursery For 54 Children Aged 0-5 Years With Car Parking For 10 Cars Accessed From Porlock Way. Approved 02/10/2003.

P/2003/0803: New Pedestrian Access Entrance And Security Fencing To Playground. Approved 04/07/2003.

P/1994/0621: Erection Of Double Mobile Classroom. Approved 21/07/1994.

P/1986/1362: Single Mobile Classroom. Approved 03/09/1986.

P/1985/0149: Single Mobile Classroom. Approved 16/07/1985.
P/1983/1722: Veh Access/Hardstanding. Approved 02/11/1983.
P/1983/0044: Community Centre. Refused 28/02/1983.

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. Highways
5. Ecology
6. Flood Risk
7. Other Considerations

1. Principle of Development

Policy SC3 (Education, Skills and Local Labour) of the Local Plan specifies that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. Policy SC3 notes further that this includes the expansion of schools to meet identified short to medium-term needs. Policy SC5 (Child Poverty) of the Local Plan states that new development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. This includes the need to support investment in existing schools and make appropriate contributions, and improve equality of access to high quality education provision for all, including early-years education.

The proposed development would improve the education facilities in the area. As such, it is deemed that the principle of the development would accord with Policies SC3 and SC5 of the Local Plan.

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.

The proposal seeks the formation of a new entrance for both staff and pupils of Roselands County Primary School. The proposed extension would include an administration block providing toilets, offices and a staffroom. The proposal also

includes the conversion of an existing building to form a new classroom.

Given the siting, scale, and design of the proposal it is considered that the proposals would not result in unacceptable harm to the character or visual amenities of the locality.

Subject to a matching materials condition, the proposal is considered to be in accordance with Policy DE1 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 to the south west of the building. Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours in terms of their outlook, privacy, or access to natural light.

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

4. Highways

The Council's Strategic Transport Officer's has stated that there are two concerns with regards to the proposal; on-site parking and the impact of pupil drop-off and pick-up times. The proposed site layout shows a loss of two parking spaces for the proposed extension. From on-site observations and it is noted that the actual on site arrangement may differ from the layout as shown. The Council's Strategic Transport Officer would not expect there to be a need to increase parking provision for one additional member of staff, however there will be a loss of two parking spaces on site, which will impact upon the travel behaviour of the staff. The Council's Strategic Transport Officer has stated that the loss of the two parking spaces can be mitigated through effective implementation of an updated travel plan. A planning condition will be given to ensure that the travel plan for the site is updated and therefore the loss of the two parking spaces is mitigated. The travel plan must clearly set out the targets and how these will be achieved. The travel plan should be refreshed to set out opportunities for 30% modal shift for pupils, staff and visitors, with SMART targets and monitoring regime (as per Policy TA1 and Policy TA2 of the Local Plan).

It is considered that the site has an impact on the surrounding roads and it has been noted on previous comments given by the Highways Department that the Council is seeking to install a 20mph zone around the site. The proposal will add

to the congestion in the surrounding residential roads (Lynmouth Avenue, Porlock Way, Mena Park Close and Roselands Drive) during peak hours at the beginning and end of the school day. It is evident that there is already fairly high levels of on street parking, in the adjoining cul-de-sacs. My colleagues in the Highways Team have already got member approval to investigate the implementation of a 20mph zone for the Roselands residential area, which would include the area of the school. Therefore a contribution towards the implementation of a 20mph zone (which may also include some parking restrictions) should be provided via S106 agreement alongside an updated travel plan.

Policy TA3 and Appendix F of the Local Plan seeks the provision of secure covered bicycle storage for one bicycle storage space per 10 students, plus 1 car parking space per 2.5 members of staff. The School may consider providing alternative scooter parking for pupils. Ideally the car parking provision would include provision of disabled parking space(s) at 10% and electrical car charging facilities. The existing bicycle storage will be reallocated and will provide adequate facilities

The Council's Highways Engineer has stated that there are no Highway technical issues, however there may be an opportunity to look at changing the parking restrictions in the surrounding area if possible, as there are issues with the existing restrictions. The Highways Department have obtained member approval to investigate the implementation of a 20mph zone for the Roselands residential area, which would include the area of the school. Therefore a contribution towards the implementation of a 20mph zone (which may also include some parking restrictions) could be provided via S106 agreement. An update will be given to Members with regard to the financial contribution required with regards to highways.

Subject to the conditions given below and the securing of any necessary financial contribution towards improving the highway and parking nearby, the proposal is considered to comply with Policies TA1, TA2 and TA3 of the Local Plan.

5. Ecology

The application has been accompanied by an ecological survey report. This report confirmed that the proposal will not impact upon nesting birds and no evidence of bats was found. No further surveys are required. The proposal therefore complies with Policy NC1 Biodiversity and Geodiversity of the Torbay Local Plan 2012-2030.

6. 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. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1.

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 policy for this application is Policies PNP1(c) Design Principles. 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. The proposal is considered to comply with this policy as the scale, design and materials match the host building, and the scale and bulk of the proposal is in keeping with the surrounding area. The proposal is therefore considered to accord with the emerging Paignton Neighbourhood Plan.

Local Finance Considerations

S106/CIL -

The proposal may entail the completion of a legal agreement to secure necessary funds towards investigating the implementation of a 20mph zone for the Roselands residential area, and this is to be delegated to the Assistant Director of Planning and Transport.

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, subject to the completion of a legal agreement to secure contributions towards highway works, and the conditions detailed below.

Condition(s)/Reason(s)

01. The extension hereby approved shall be clad in materials matching those of the host building, 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 use of the extension and conversion hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details of an update to the existing 2010 Travel Plan, setting out opportunities for 30% modal shift for pupils, staff and visitors, with SMART targets and monitoring regime, with the achievement of targets being given over a specific timeframe.

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.

03. In accordance with the submitted flood risk assessment received 30th November 2018, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay

Local Plan 2012-2030 and the guidance contained in the NPPF.

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

SS11 - Sustainable Communities Strategy
SC3 - Education, skills and local labour
SC5 - Child poverty
DE1 - Design
DE3 - Development Amenity
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
NC1LFS - Biodiversity and Geodiversity_
ER1 - Flood Risk

Application Number

P/2018/1216

Site Address

Suite Dreams Country Hotel
Steep Hill
Torquay
TQ1 4TS

Case Officer

Mr Alexis Moran

Ward

St Marychurch

Description

Conversion of existing hotel into 10 self-contained apartments, including an increase in ridge level of 400mm, and demolition of rear extension.

Executive Summary

This planning application proposes the conversion of the existing building, which was last in use as a hotel, into 10 residential flats. The site is within the Maidencombe Conservation Area, the Countryside Zone and the Maidencombe Village Envelope.

The proposal includes an increase to the existing ridge height of 400mm and the addition of two pitched roof dormers to the southern elevation. The internal and external amenity spaces to be provided would comply with Policy DE3 and the alterations to the roof are deemed to have an acceptable impact on the character and appearance of the conservation area.

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

Recommendation

Conditional approval, with the final drafting of conditions, and addressing any new material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.

Site Details

The site, Suite Dreams County Hotel, is located on Steep Hill, Torquay and comprises a former hotel building and its curtilage. The building is a two-storey rendered building with concrete roof tiles. The last use of the building was as a hotel but it is currently vacant.

In terms of designations, the site is within the Maidencombe Conservation Area, the Countryside Zone and the Maidencombe Village Envelope. There is an area Tree Preservation Order which covers the site and there are Grade II Listed

Buildings adjacent to the south and west.

Detailed Proposals

The proposal is for the conversion of the existing building, which was last used as a hotel, into 10 residential flats. In order to provide sufficient internal floor areas and accommodation in the roof space, the roof of the existing building is to be raised by 400mm and by providing two pitched roof dormer extensions to the southern elevation.

Part of an extension to the north of the building is to be demolished to provide room for additional external amenity space for future occupiers of the proposed development. The existing boundary hedgerows are to be retained. The proposal would provide ten parking spaces. A cycle and bin storage area for each unit would also be provided.

There is an extant permission on the site for its redevelopment to 10 flats and it is therefore designated as a committed site in the Local Plan Policies Map.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary Of Consultation Responses

South West Water - No Objection

Drainage Engineer - As the development is located in Flood Zone 1, there will be no increase in impermeable area and the application relates only to alterations and refurbishment of an existing building, I have no objections on drainage grounds to planning permission being granted.

Senior Historic Environment Officer - No objections.

Strategic Highways - Sufficient parking spaces are provided on site to meet with the policy requirements. Access to sustainable transport in Maidencombe is on Teignmouth Road.

There is one less parking space than previously approved, but that was provided as a back to back space that did not make it generally available. Therefore there is no substantive change.

There is no on-site capacity for visitor parking, or for the occupants to own more than one vehicle, and this would inevitably result in some on-street parking. There is a public car park within a short walking distance that could be utilised.

It is not clear whether electric charging points are proposed but it appears not. Given that there is no additional capacity to create a specific charging space, a supply cable capable of powering charging points, should be provided around the car park to enable the individual occupant to install a charging unit if they choose to at a later date.

Cycle parking is provided within the site, one for each apartment. This is sufficient to meet the policy requirement though it is not clear if these are covered as required by the policy. Five of the spaces appear to be located at the rear of a gated bin store. This has the potential to be an undesirable, and potentially inaccessible, location to park a cycle. It would be welcomed if the siting of these five could be reconsidered.

In terms of vehicular access it should be noted that vehicles exiting the site must make a left turn given existing restricted access point. This does not have an impact on the use of the site.

Arboricultural Officer - No objection

RSPB - Cirl buntings

The application site is adjacent to Lower Gabwell Fields (Labrador Bay) County Wildlife Site, designated for farmland bird interest, including cirl buntings. The site is within 200m of a cirl bunting breeding territory recorded in the last national survey in 2016. Given this proximity, and the nature of the boundary hedge/bramble habitat, that habitat could potentially be used by nesting cirl buntings (they have been recorded nesting in garden hedges that are adjacent to suitable farmland habitat). Cirl buntings are specially protected under Schedule 1 of the Wildlife and Countryside Act, making reckless or intentional disturbance of nesting birds as well as destruction of active nests an offence). Therefore, it is recommended that the following conditions be placed on any planning permission to safeguard any nesting cirl buntings:

- o Retention of boundary vegetation (we understand from the Planning, Design and Access Statement (Philip Bailey Architects Ltd, undated) that this is intended).
- o No removal of any potential nesting habitat including bramble in the months March to mid September (cirl buntings can still have chicks in the nest into early September, and other hedge/bramble nesting species such as robins and blackbirds can be nesting in March).
- o Boundary hedges/bramble to be protected by Heras type fencing during construction to avoid risk of damage or removal.

Urban biodiversity enhancement

A minimum of 9 internal swift 'nest bricks' and the same for bat boxes should be provided. Boxes should be c. five metres above ground level in locations sheltered from prevailing weather and direct sunlight, and sited close to the eaves or barge boards, ideally not above windows (if used by house sparrows, some nesting material or droppings may be visible from the exterior or fall below the nest).

Lighting

Controls on external lighting to avoid spill onto the adjacent hedge and other vegetation and into the County Wildlife Site will be appropriate as maintaining dark flyways is important for many bat species. Light spill should also be avoided onto locations of bat boxes.

Summary of Representations

None

Relevant Planning History

P/2011/0356 - Extend time limit - redevelopment to form 10 flats - application P/2008/0832/MPA; APPROVED 19.09.2011.

P/2008/0832 - Redevelopment to form 10 flats; APPROVED 08.09.2008

Key Issues / Material Considerations

The key issues are:

1. The Principle of the Proposed Development
 2. Visual Impact
 3. Amenity
 4. Impact on the Landscape Character
 5. Highways and Access
-
1. The Principle of the Proposed Development

The site is located within the Maidencombe Village Envelope and the designated Countryside Zone. The key Policy in respect of these designations is therefore Policy C1 (Countryside and the rural economy). This Policy states that

development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies. The Policy advises that suitable infill development, refurbishments and conversions will be permitted within these settlements in order to meet the day-to-day needs of local communities, to promote the retention and development of local services and to help maintain their sustainability.

The proposal is for the conversion and refurbishment of an existing building and is deemed to comply with the Village envelope aspect of Policy C1 of the Torbay Local Plan 2012-2030. Policy H1 (Applications for new homes) supports schemes for new housing on allocated/committed sites such as this, subject to compliance with other Local Plan Policies.

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

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

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

The conversion from holiday accommodation to residential would not affect the holiday character of the area and the range of holiday facilities would not be significantly undermined. The proposal has the potential to enhance the original property by restoring some of its past character, this will be assessed in further detail later in this report. In principle, the proposed change of use is acceptable subject to compliance with the aforementioned stipulations of Policy TO2.

2. Visual Impact

Policy SS10 of the Torbay Local Plan 2012-2030 states that developments within the conservation area should preserve or enhance its character; this is in compliance with the NPPF. Indeed Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy DE1 states that development should be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and buildings of historic interest.

The proposal would involve removing unsympathetic UPVC windows and replacing them with windows appropriate to the character of the original property and wider conservation area. In order to ensure an adequate form of development, it is considered necessary that a condition is added which requires the replacement of the UPVC windows with timber, prior to the first occupation of the dwellings.

The site is not highly visible in the wider conservation area as it is set back from the road and flanked by buildings to the north and south. Given the topography of the road (Steep Hill), the site is partially obscured from wider views by the existing neighbouring buildings and the existing natural environment in terms of trees, boundary hedges etc.

The alterations to the roof including the increase in ridge height and the addition of the dormers are considered to be of an acceptable scale and, on balance with improvements to the windows, are considered to preserve the character of the conservation area. The proposal is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, and the guidance contained in the NPPF.

There are Grade II Listed Buildings to the south and south-west, it is not considered that the alterations to the application site would be of detriment to the character or setting of the Listed Buildings. The proposal would not result in harm to heritage assets and is therefore in accordance with Policies HE1 and SS10, and the guidance contained in the NPPF.

Given that the proposal would result in relatively modest changes to an existing building, and the relationship the proposal would have to its surroundings, it is considered that it would not result in unacceptable harm to the character of the area. The proposal is in accordance with Policy DE1 and the guidance contained in the NPPF.

3. Amenity

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

The proposal includes the addition of windows and dormers to the southern elevation. It is considered that the additional windows would have an acceptable impact on the privacy and amenity of neighbouring occupiers to the south.

The Thatched Tavern and Little Thatch, to the south, are in excess of 20m from the site, a distance considered to be sufficient enough to result in acceptable levels of intervisibility. The additional windows would have a limited impact on the privacy of Lilly Cottage to the south-west of the site as the orientation of the two properties provides limited angles for overlooking between windows and private amenity spaces.

The additional windows to the north of the site would have a limited impact on Rose Vine (to the north) given the height of the existing boundary wall and foliage.

The proposed ground floor units would have private external amenity spaces with the first and second floors having balcony/terrace areas. Given the close proximity to green spaces and Maidencombe Beach, the amenity areas proposed are considered to be acceptable.

Sufficient off road parking (one space per unit) is provided for the proposed units and there is sufficient space on the site for bin and cycle storage. A condition requesting final design of covered bin and cycle storage is proposed in order to ensure a suitable form of development. The provision of the parking spaces will also be conditioned to ensure suitable parking is provided prior to the occupation of the flats.

The internal amenity spaces of the proposed flats comply with the internal space standards set out in Policy DE3 of Local Plan and all are considered to provide a good quality of living environment.

Given the scale, siting and design of the proposal it is deemed to provide a good quality of accommodation for future occupiers and would have an acceptable impact on the amenity of existing neighbouring occupiers. The proposal is therefore deemed to comply 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 boundary hedgerows. Existing trees on site are also to be retained with further landscaping added. Although the landscaping proposals are minimal, the landscape character of the area is considered to be retained.

5. Highways and Access

In terms of vehicular access, vehicles exiting the site must make a left turn given existing restricted access point. This does not have an impact on the use of the site.

The proposal provides 10 parking spaces which accords with Policy TA3 of the Local Plan.

A condition requiring the provision of the parking spaces prior to the first occupation of the dwellings is deemed necessary in order to ensure that suitable parking is available to future occupiers.

A condition requiring further details of covered cycle storage and the addition of an electrical power cable, capable of powering electric car charging points is deemed necessary in order to ensure compliance with Policy TA3 of the Local Plan.

6. Other Considerations - Neighbourhood Plan

The Torquay 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 Policy TH8 (Established Architecture). This policy requires 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. Policy TH9 (Parking Facilities) requires that all housing developments meet the guideline parking requirements. Policy TH11 - Rural village conservation areas, the proposal is deemed to conserve the character of the conservation area. The proposal is therefore considered to be in accordance with the Torquay Neighbourhood Plan.

Drainage - The development is located in Flood Zone 1, there will be no increase in impermeable area and the application relates only to alterations and refurbishment of an existing building. The proposal will not therefore have an impact on flood risk/drainage and accords with Policy ER1 of the Local Plan.

Ecology - The RSPB have advised that the site is within 200m of a Cirl Bunting breeding territory and have recommended conditions to safeguard nesting Cirl Buntings, subject to the addition of these conditions, the proposal is deemed to be in accordance with Policy NC1.

Conditions with regards to the provision of bat and swift boxes are considered to be necessary. A condition with regards to the siting of external lighting to ensure it does not have a detrimental impact on bats roosting in the boundary hedge and

bat boxes is also deemed necessary.

CIL

Community Infrastructure Levy

The land is situated in Charging Zone 3 in the Council's CIL Charging Schedule. Despite this proposal being a conversion, as the building has not been occupied for its lawful use for 6 continuous months over the last 36 months, the proposal dwellings are likely to be CIL liable at a rate of £70/sqm.

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

Bearing the above points in mind, it is deemed that the proposal is appropriate for conditional approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 2, The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure shall take place within the application site 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 amenity and in the interests of protected species in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

2. Prior to the commencement of development a tree protection plan which shall include the proposed positioning of tree protection fencing to protect trees and hedges along the northern and eastern boundaries, and details of any special methodology for tree protection shall be submitted to the Council for its approval in writing. The approved tree protection methods shall be carried out in full during the construction phase.

Reason: This information is required prior to commencement in order to ensure trees are protected in the interests of biodiversity and visual amenity in accordance with Policies SS8, NC1, C4 and C5 of the Torbay Local Plan 2012-2030.

3. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030

4. All planting, seeding or turfing comprised within the landscaping scheme shown on Proposed Layout Plan ref: A103-P (received 03.12.2018) shall be carried out in the first planting season following the completion of the development and any trees or plants (including existing specimens to be retained) 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 four weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policy DE1, C4 & NC1 of the Torbay Local Plan 2012-2030.

5. Prior to the first occupation of the development hereby permitted, the scheme of boundary treatment as shown on Proposed Layout Plan ref: A103-P (received 03.12.2018), shall be fully installed and thereafter retained as such 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.

6. No development, other than demolition, shall take place until a scheme of external lighting has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include a lighting assessment with measures to prevent light-spill into the surrounding area and harm to protected species. The development shall be undertaken in accordance with the approved scheme and shall be retained as such for the life of the development.

Reason: In the interests of amenity/biodiversity and in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

7. No development, other than demolition, shall take place until details of the proposed cladding materials (walls and roofs) and openings 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 & SS10 of the Adopted Torbay Local Plan 2012-2030.

8. Prior to the first occupation of the development hereby permitted, provision shall be made for covered cycle storage, an electrical power cable capable of powering electric car charging points and covered storage of refuse and recycling, awaiting collection, according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies DE1 & TA3 of the Torbay Local Plan 2012-2030.

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

10. Prior to the first occupation of the development hereby permitted, details of a minimum of 9 internal swift 'nest bricks' and 9 bat boxes shall be submitted to and approved in writing by the Local Planning Authority. The agreed nest bricks and bat boxes shall be installed prior to the first occupation of the development, and retained indefinitely thereafter.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030

11. Prior to the first occupation of the development hereby permitted, all existing UPVC windows shall have been replaced with timber windows in accordance with a revised plan which shall have been submitted to and approved in writing by the Local Planning Authority. Once installed, the approved timber windows shall be retained thereafter.

Reason: In the interest of visual amenity and in accordance with Policy DE1 & SS10 of the Adopted Torbay Local Plan 2012-2030.

12. Prior to the first occupation of the dwellings hereby approved, the single storey extension on the northern side of the building shall be partially removed in accordance with Proposed Layout Plan A103-P (received 03.12.2018).

Reason: In the interest of visual amenity and in accordance with Policy DE1 & SS10 of the Adopted 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. Community Infrastructure Levy (CIL).

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough. CIL next steps required under the CIL Regulations 2010 (as amended): Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure. Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development. The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice. The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure. Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations). Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

Relevant Policies

- DE1 - Design
- DE3 - Development Amenity
- H1 - New housing on identified sites
- NC1 - Protected sites - internationally important
- SS10 - Conservation and Historic Environment
- HE1 - Listed Buildings
- C1 - Countryside and the rural economy

TO2 - Change of use of tourism accommodation
TA3 - Parking requirements
C2 - The coastal landscape
C4 - Trees, hedgerows and natural landscape