

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 8 April 2019

commencing at **2.00 pm**

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

Please note that the meeting venue has changed. The meeting will be held at the Town Hall, Torquay and not the Riviera Centre, Torquay.

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor King
Councillor Lewis (B)
Councillor Manning

Councillor Morey
Councillor Pentney
Councillor Tolchard

A prosperous and healthy Torbay

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

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01803 207087**

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DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on 11 March 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. **213 St Marychurch Road Torquay P/2018/0962** (Pages 7 - 24)
Demolition of existing building to form 17 apartments & parking.
(Revised plans received 6/3/19)
6. **Combe Pafford School Steps Lane Torquay P/2018/0996** (Pages 25 - 36)
This planning application seeks permission for the formation of a synthetic sports pitch with associated fencing within the curtilage of Combe Pafford School.
7. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 3 April 2019. Site visits will then take

place prior to the meeting of the Committee at a time to be notified.

8. 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.



Minutes of the Development Management Committee

11 March 2019

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Brooks, Darling (S), Lewis (B), Manning and Morey

(Also in attendance: Councillors Darling (M))

47. Apologies for absence

An apology for absence was received from Councillor King.

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

48. Minutes

The Minutes of the meeting of the Development Management Committee held on 11 February 2019 were confirmed as a correct record and signed by the Chairman.

49. Torquay Pavilion and Marina, Vaughan Parade, Torquay (P/2015/0961& P/2015/0962)

The Committee considered an application for planning permission and listed building consent for development of Torquay Pavilion and Marina car park and adjoining land. The Committee was advised that as a result of a legal challenge the previous decisions made at the Development Management Committee held on 27 February 2017 and 8 May 2017 had been quashed by an Order of Court and therefore required redetermination. Members were provided with details of the updated information required from the applicant and it was confirmed that this information had not been submitted to the Council by the requested deadline.

At the meeting Alan Griffey, Cordelia Law and Paul Fraser addressed the Committee against the applications.

Resolved:

That applications P/2015/0961/MPA and P/2015/0962/LB be refused for the reasons set out in the submitted report.

50. Grange Court Holiday Centre, Grange Road, Paignton (P/2018/0579)

The Committee considered an application for use of land for static holiday lodge caravans.

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

Resolved:

Subject to the completion of a legal agreement/unilateral undertaking to secure a contribution towards monitoring of the holiday use, the application be approved subject to the conditions set out in the submitted report and additional conditions in respect of delivery of the static caravans and landscaping/planting, with the final drafting of conditions being delegated to the Assistant Director for Planning and Transport.

51. Land South Of 27 Empire Road (P/2018/0901)

The Committee considered an application for formation of two detached two-storey dwellings (revised plans received 29/1/19). The Committee was advised that minor changes had been made to the plan since the agenda was published, these were:

The vehicle turntable for unit 2 had been removed;
The shared store serves unit 2; and
Condition 6 should refer to P1002 received on 4 March 2019.

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

Resolved:

Approved with the final drafting of conditions, to include those set out in the submitted report, being delegated to the Assistant Director of Planning and Transport.

52. Curtilage Of 1 Laura Grove, Paignton (P/2018/1136)

The Committee considered an application for the formation of a dwelling and garage.

Prior to the meeting written representations were circulated to members. At the meeting Caroline Perry addressed the Committee against the application.

Resolved:

Approved with the final drafting of conditions, to include those set out in the submitted report, being delegated to the Assistant Director for Planning and Transport, and the following amendments:

Condition 2 to include the existing landscaping to be retained
Condition 10 to refer to plan 18.428a.

53. Barton County Junior And Infant School , Barton Hill Road, Torquay (P/2018/1211)

The Committee considered an application for formation of a nursery building.

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

Resolved:

Approved with the final drafting of conditions, to include those set out in the submitted report, being delegated to the Assistant Director for Planning and Transport.

54. Exmouth View Hotel, St Albans Road, Torquay (P/2018/1283)

The Committee considered an application for demolition of the existing hotel and construction of twelve apartments, two townhouses, and associated car parking.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Messrs Robinson and Bryant addressed the Committee against the application and Miss Stewart addressed the Committee in support of the application.

Resolved:

Approved, subject to;

- (i) the satisfactory receipt of surface water drainage details to ensure that there would be no increased risk of flooding;
- (ii) highway mitigation as outlined within the submitted report to amend parking restrictions in the immediate area, secured either through an upfront payment or a Section 106 Agreement;
- (iii) the receipt of amended plans to show the provision of at least one additional parking space;
- (iv) the provision of an electric car charging point; and
- (v) the final drafting of conditions, to include those set out in the submitted report, being delegated to the Assistant Director of Planning and Transport.

Chairman

Agenda Item 5

Application Number

P/2018/0962

Site Address

213 St Marychurch Road
Torquay
TQ1 3JT

Case Officer

Mr Alexis Moran

Ward

St Marychurch

Description

Demolition of existing building to form 17 apartments & parking. (Revised plans received 6/3/19)

Executive Summary/Key Outcomes

The existing building is 3 stories in height with flat roofs, a number of unsympathetic extensions over the years have resulted in very little of the original villa still being visible. It has most recently been used as a care home but shut down in 2017 and is currently vacant. The site is within the St. Marychurch Conservation Area, it is not Listed nor is it a key building.

The application proposes the demolition of the existing building and to redevelop the site to provide seventeen apartments within a four storey building. The proposal includes the provision of seventeen car parking spaces.

The proposed building would have an appearance derived from the principle of a modern take on a Victorian villa one which is not uncommon in Torbay and within the immediate vicinity. The building has rendered elevations with vertical fenestration to pick up the architectural language of the building which would have originally occupied the site.

The building has been reduced in scale during the application process with the fourth storey being made more recessive and 15% smaller, the overall development is 10% smaller than when first submitted. The overall scale and height of the proposed development is considered to be acceptable and is deemed to retain the character of the Conservation Area.

Neighbour amenity to the north, east and south is adequately protected given the distances between the site and its residential neighbours. The impact on the privacy and amenity of the neighbours to the west can be mitigated by a condition requesting details of a scheme of obscure glazing and by reducing the useable space of the fourth floor terrace.

The demolition of the existing building is acceptable as the building is not listed and has a negative impact on the character of the Conservation Area.

Recommendation

Conditional approval with final drafting of conditions delegated to the Assistant Director of Planning and Transport and a s.106 agreement to allow for a review of the financial viability of the development.

Site Details

The site, 213 St. Marychurch Road, Torquay, has most recently been used as a care home but shut down in 2017 and is currently vacant. The original property was one of the villas which made up part of the mid 19th century development. The site is within the St. Marychurch Conservation Area, it is not Listed nor is it a key building. The existing building is 3 stories in height with flat roofs, a number of unsympathetic extensions over the years have resulted in very little of the original villa still being visible.

The site is approximately 0.2ha in area and is screened to its east, south and west elevations by trees.

There is a single vehicular access off St Marychurch Road with parking for four cars. The site lies just outside of the St. Marychurch district centre and within close proximity to a bus stop.

Detailed Proposals

The proposal is to demolish the existing building on the site and replace it with a modern, four storey building to provide seventeen apartments. The proposal includes seventeen parking spaces, two of which have electrical charging points and seventeen cycle spaces.

The design of the building is a modern interpretation of the villa typology which is found within the conservation area. The elevations are to be largely white render on the ground, first and second floors with black render on the third floor which is a recessed level. The elevations are vertically proportioned and heavily glazed. Natural stone walling is proposed adjacent to the new building and the boundary with Broadhurst Court.

There are four floors of accommodation with four units provided on the ground floor, five units on the first floor, five on the second floor and three units on the recessed third floor.

The units provide a range of accommodation with the smallest providing a 55m² one bed apartment and the largest a two bed apartment of 83.7m².

The access is off of St. Marychurch Road with thirteen parking spaces to the north of the proposed building and four in an undercroft parking area at ground floor level on the principal elevation.

A communal garden is proposed to the rear of the building which is

approximately 680m², apartment 1 has a private garden to the west of the proposed building which is 36m². Apartment 2 also has a private garden to the west of the proposed building which is approximately 60m². Apartments 3 and 4 both have small terrace areas leading out to the communal garden.

At first floor level four of the apartments have terrace/balcony areas, two to the north elevation and two to the south elevation, this is mirrored at second floor level. At third floor area there is a larger terrace area which covers the area recessed at this level, the largest section of which is to the west elevation.

Waste storage is also provided for within a small bin store area to the south of the parking area and east of the new building.

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

Historic England

The proposed new building will be a bulky, and incongruous form when seen in the context of the elegance of the Victorian villas which populate so much of this part of Torquay. Whilst many have been insensitively altered in recent decades, the predominant architectural idiom is clear and defines the character of the area - graceful, stuccoed buildings with pitched slate roofs set at an oblique angle in spacious plots - the proposed replacement building would be an inharmonious addition to the street scape, neither referencing the surrounding buildings in scale or form nor as a piece of complementary and dignified design in its own right. As a result, Historic England does not accept that this revised proposal will either conserve or enhance the character of the Conservation Area and we

maintain that a more contextual response should be sought.

While Historic England does not wish to question the principle of some development at this location, we believe a more sensitive architectural solution is required in order to preserve the character and appearance of the surrounding conservation area. We therefore encourage your authority to seek significant design modifications.

Conservation and Design Team

An 'on balance' consideration should be given as the existing building could be regarded as a negative contributor to the conservation area. Because of the lack of overall quality of the existing building and some of the positives of the proposed design elements of the new building a case could be made on balance to suggest that the scheme represents less than substantial harm to the designated heritage asset in which case para 196 of NPPF should be applied.

Drainage Engineer

Providing the surface water drainage is constructed in accordance with the submitted documents there is no objection on drainage grounds to planning permission being granted.

South West Water

No objection

Highways / Strategic Transport

From the layout Drawing they have shown they are widening the entrance, and as there is a white "T" bar road marking across the access which allows a vehicle to exit carefully into the road, this gives them the required visibility if there were no parked vehicles each side of the access.

A previous planning application at almost the same location had taken speed readings and the outcome was the average speed in both directions was 20 mph, therefore I don't think there is a requirement for any loss of on street parking.

The parking space dimensions are correct. The Local Plan states one parking space per flat, on each application, not based on the number of rooms or adjacent developments in the area. Because of one hour on street parking and being close to a local centre, visitor parking is not essential on this site. There are two electric charging bays, but no disabled bays.

Arboriculture Officer

There is an Area TPO 1973.22 and Conservation Area covering the entire site. The submitted tree survey report shows the intended removal of 13 trees of mixed species (including ash, cherry, sycamore) to make way for the new building and to remove tall trees along the boundary of Manor Road due to them being generally of poor quality. These trees have been assessed as being of

moderate and low quality, categorised according to BSS5837:2012 Trees in relation to design, demolition and construction. There are also tall neighbouring trees close to the proposals.

It is proposed to plant 5 new trees along the boundary of Manor Road (tall growing species including Turkish hazel, lime and Dawn Redwood). No further landscaping details have been submitted.

Police Designing out Crime Officer

The Police have no particular concerns with regard to the design of the proposed development

Affordable Housing

An Independent Viability Assessment has been provided which confirms that affordable housing is not viable on this site.

Waste management

The location of the bin store is within the 25m from the nearest collection point on the highway, although it would be essential to ensure that access to the bin store was not blocked for the collection crew emptying the bins and that flat, level access could be guaranteed, to facilitate collections. In order to help to ensure this and to reduce the amount of time that the collection vehicles spend parked up outside the property, it might be prudent to locate the bin store closer to the highway.

Summary Of Representations

Seventeen representations objecting to the scheme. A summary of the main planning related concerns are detailed below.

- Overdevelopment
- impact on infrastructure
- poor design and harmful visual impact
- impact upon the conservation area
- impact upon the character of the existing villa
- too large/tall
- out of character
- loss of outlook
- loss of light
- loss of privacy and overlooking
- noise and disturbance
- lack of parking & traffic congestion
- access issues
- drainage

Relevant Planning History

DE/2018/0062 - Demolition of existing building and formation of 17 Apartments; the general design proposal for a modern building was supported, it was

suggested that further information regarding the fourth storey were submitted
06.11.2018

P/2003/1244 - renewal of P/1998/0844; approved 28.08.2003

P/1998/0844 - Alterations and erection of ground floor extension to provide 4 bedrooms and WCs to existing residents lounge; approved 27.07.1998

Key Issues/Material Considerations

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

1. The principle of the development
2. Visual impact, including the setting of the St Marychurch Conservation Area
3. Impact upon the residential amenity of adjacent occupiers
4. The quality of the proposed residential environments
5. Highway, parking and movement impacts
6. Flood risk and drainage impact
7. Ecological impact
8. Arboricultural impact

1. The principle of the development.

The existing building is not Listed however it is within a Conservation Area and is therefore afforded some protection as an undesignated heritage asset. Any protection afforded to the building is because of its location within the Conservation Area and not because of its current architectural quality. It is evident that the original villa character of the building has been lost through the addition of a number of unsympathetic extensions over the years. The result of this is that little of the original villa is now visible and the building is of very poor architectural character/quality. Policy SS10 refers to conservation and the historic environment, this policy advises that all heritage assets will be protected, proportionate to their importance. In this instance the existing building is of no historical or visual importance and in fact has a detrimental impact on the character and appearance of the Conservation Area. The loss of the existing building is not a central issue to consider in this context and would be hard to resist in planning terms.

Policy H6 (Housing for people in need of care) states that proposals involving the loss of existing care facilities will be supported where the facilities are no longer needed. The policy goes on to say that where a change of use from a care home is agreed, the creation of family homes will be encouraged. The care home closed down in 2017 and has not been in use since. Although the proposals may not necessarily consist of family homes, they do provide well-proportioned accommodation in a very sustainable location and will make a useful contribution to the housing stock in the area, as such they are deemed to comply with Policy H6 of the Local Plan.

The principle of residential apartments on the site is considered acceptable as it would reflect and sit comfortably with the predominant residential character of the area. The location is considered to be well suited for a residential use as the site

is in a sustainable central location close to shops, social and recreational infrastructure and transport links.

The principle of providing a larger building on the site is generally supported in Local Plan policy guidance and in the NPPF, with the notion clear that development should seek to maximise the re-use of urban brownfield land, subject to other considerations. In further policy terms the provision of seventeen units on the site will also aid the delivery of new homes and the Council's 5 year housing supply.

In summary, in terms of planning policy and principle the demolition of the building is accepted. The site provides a good location for a residential use as there is a residential character to the area and the site is close to services and facilities and presents the efficient use of brownfield land that would help meet housing need and the Council's 5 year housing supply. This presents general accordance with the aims and objectives of Policies H1 (Applications for new homes), SS11 (Sustainable communities), SS12 (Housing) and SS13 (Five year housing supply) of the Local Plan.

2. Visual impact, including the setting of the St Marychurch Conservation Area.

The demolition of the existing building has previously been discussed, the current building has a detrimental impact on the character and appearance of the Conservation Area. As so little of the original villa remains it would not be possible to remove the unsympathetic additions

The site is located in a reasonably prominent roadside position within the St. Marychurch 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 adversely affect the character and appearance of the conservation area.

The modern design proposed under this development is comparable with other replacement villas in Torbay and there are examples of similarly designed building within the area. The recent development at South Devon Hotel, 10 St Margarets Road (P/2017/0888) which is some 160m to the north-west of the application site and 178 St Marychurch Road (P/2009/0333) are examples of recent modern designed buildings to the St Marychurch area which resulted in higher density developments, making efficient use of brownfield sites. These buildings, and the proposed development, are responsive to the context of the area which is that of large detached villas and apartments.

The design has been revised during the application stage with the fourth floor being 15% smaller, the design now has more vertically proportioned openings, rendered white elevations, natural stone walling and a single principal projecting bay with open corners. The elevations have become simpler and more

successful, and the fenestration clearly expresses a vertical emphasis to the openings, which reflects the Victorian properties that it seeks to reference. The applicant has followed advice from the Council's Historic Environment Officer in providing a modern design approach rather than a pastiche building. Although it is noted that Historic England appear not to favour this design form there are examples of this modern form within Conservation Areas and within former villa plots in Torbay. The modern design is deemed to be responsive to the Conservation Area and the concept of such a form of development is deemed to comply with Policy DE1.

As previously stated the proposal has been amended during the application stage with the fourth floor made more recessive and reduced in overall area by 15% with the overall proposal being reduced in width resulting in a 10% reduction to the size of the development overall.

The proposed building is a storey higher than the existing however it is set back from the road by a further 10m than the existing building which reduces its apparent size when viewed in the immediate context. This along with the recessed fourth storey reduces the size of the building when viewed from the wider Conservation Area. The information submitted by the applicant identifies a number of 3-5 storey buildings in the surrounding area although the immediate context is that of two-three storey villas.

Policy DE4 (Building heights) states that new development should be constructed to the prevailing height within its location. However the introduction of buildings higher than the prevailing building height will be supported where they;

- o Enhance the vitality of the area
- o Strengthen the character of the area
- o Are appropriate in terms of their visual impact
- o Make a positive addition to the built form

In this instance the proposal would replace an existing building of poor design which is currently vacant and replacing it with a taller building of a good quality design which would contribute towards Torbay's 5 year housing land supply.

The general scale of development is considered commensurate with the locality having regard to the surrounding density and character. Examples of more recent development that has been built have sought the efficient use of land and often resulted in an increase in building heights whilst still being in-keeping within the existing townscape.

The development, on balance, is deemed to lead to less than substantial harm to the significance of the Conservation Area and would provide a public benefit through the addition of a new, good quality building which would provide much needed housing. The proposal is deemed to comply with paragraph 196 of the NPPF and Policy SS10 of the Local Plan which requires development to conserve or enhance the character and appearance of Conservation Areas.

The orientation of the building, which is parallel to its boundaries, is considered to be suitable and picks up the historical context of the building layouts of neighbouring plots. The footprint of the building is modestly increased from 465m² to 503m² which is an increase in the built area of the site from 27.1% to 29.3%. Bearing this in mind the proposal is not considered to be an overdevelopment of the site and would comply with Policies DE1 & H1 of the Local Plan.

There is a Grade II Listed Building 30m to the north known as Alderbourne on Greenway Road, Policy HE1 states that development proposals should preserve any listed building and its setting. The proposal is considered to preserve the setting of the listed building and therefore complies with Policy HE1.

3. Impact upon the residential amenity of adjacent occupiers.

The existing properties to the east, the closest of which is Chilcote House is approximately 35m away. Although the proposed development will be taller than the existing building on the site, the distance between the existing properties to the east and the proposal is considered to be sufficient enough to have a limited impact on the privacy and amenity of the occupiers of these properties.

To the south the properties of 19-25 Manor Road are approximately 25m away and the southern boundary is well screened by existing mature trees. The proposed building is taller than the existing and includes balconies/terraces on its southern boundary however the distance between the properties and the existing boundary screening result in an acceptable level of overlooking/intervisibility.

The proposed building is set off of the west boundary by 4m and is 6m from the closest point of Sandhurst Court. The realignment of the building and the increase in height which will result in a development 2.2m higher than the highest point of the existing would inevitably result in a more dominant building when viewed from Sandhurst Court the built form would however be sited further off of the boundary than is currently the case and the fourth storey would be recessed to the extent that the increase in height would have limited impact in terms of overdominance. However the building would be bulkier in terms of its height in relation to the boundary and in terms of the extent to which it protrudes further to the rear than the existing.

On balance the increase in bulk of the building is considered to be a suitable distance from the boundary and from the neighbouring property to the west for the relationship to be acceptable in terms of overdominance/overbearing impact. The increase in height and reorientation of the building would not cause an unacceptable increase in loss of light to habitable windows in Sandhurst Court given its location away from this boundary.

When considering overlooking/intervisibility between the proposed dwellings and

the property to the west, Sandhurst Court, which is 6m at its nearest point, it is noted that there are more windows than in the existing building on the west elevation of the proposed building at first, second and third floor level (including the third floor terrace area). Subsequently there is likely to be more opportunity for overlooking and loss of privacy between the two buildings. Privacy could be protected by requiring a scheme of obscure glazing on the west elevation and a method of reducing overlooking from the west elevation of the third floor terrace by a planning condition.

On balance and subject to the addition of a condition regarding a scheme of obscure glazing, the proposal is considered acceptable in terms of its impact on residential amenity and compliance with policy DE3 of the Local Plan.

4. The quality of the proposed residential environments.

The individual apartments are all relatively large and are in excess of the minimum space standards laid out in the local plan.

The supporting text to policy DE3 of the Local Plan seeks to achieve a minimum size for dwellings and gardens and better designed homes. The unit sizes are consistent with the suggested standards as is the amount of communal garden space.

The units are all acceptable in terms of outlook, amenity and design and are considered compliant with the relevant paragraphs of the National Planning Policy Framework which refer to creating good quality living environments and policy DE3 of the New Local Plan.

5. Highway, parking and movement impacts

The scheme presents a widened and improved access point to the current arrangement this is supported by the Council's Highway Engineers as this is likely to present a safer entry and exit point with improved visibility.

The scheme proposes a parking ratio of 1:1 which is in accordance with the parking level required by Policy TA3 for apartment schemes outside of town centres. It is noted that parking pressures have been raised as a concern in representations. The Highways Officer has advised that the parking provision is acceptable and because of one hour on street parking and being close to a local centre, visitor parking is not essential on this site. The garage spaces, which were below the size standards in the Local Plan have been replaced by undercroft parking.

There is an absence of disabled parking and the layout should accord for one space being at least 3.6m wide. The addition of one disabled parking space to the layout will be requested by condition.

Cycle parking has been engrained within the scheme in the undercroft area,

further details of the siting of these spaces will be requested by condition. The provision is considered acceptable and these should be achieved by condition citing the provision prior to occupation and retention for such purposes at all times thereafter.

With an improved and safer access secured, together with adequate parking and cycle store provision, the proposal is considered acceptable on highway, movement and parking grounds and in accordance with the aims and objectives of Policies TA2 (Development access), TA3 (Parking requirements) and Appendix F (Car parking requirements) of the Local Plan.

6. Flood risk and drainage impact.

Torbay has been designated a critical drainage area (CDA) with a more rigorous surface water disposal strategy required in order to ensure that brownfield sites achieve much reduced rates of surface water runoff.

The developer has demonstrated that the use of infiltration drainage at this site is not feasible and he has therefore proposed a controlled discharge to the combined sewer system.

The proposed drainage strategy complies with the requirements of the Torbay Critical Drainage Area with surface water discharging to the culverted watercourse at a controlled discharge rate limited to 1.5l/sec. The developer has submitted calculations showing how the 1 in 10 year Greenfield run-off rate has been calculated.

Hydraulic calculations have been submitted to demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

The proposal therefore complies with the requirements of Policies ER1 and ER2 of the Local Plan.

7. Ecological impact.

The existing building has been surveyed for bats and no evidence of any current or recent bat use was found and the building was considered to have a low level of potential for roosting bats. No evidence of nesting birds was found within the roof or eaves of the building however the mature trees and shrubs in the garden offer suitable features for nesting birds and foraging bats.

The submitted Preliminary Ecological Appraisal states that the rear garden is likely to support slow worms. Subsequently recommendations during the construction phase have been identified within the accompanying ecological report to avoid disturbance to slow worms. The recommendations within the

ecological report will be achieved with the addition of a planning condition. A condition regarding works during the bird nesting season is also considered necessary.

National and local guidance outlines that development proposals should take opportunities available to enhance biodiversity in order to respond to guidance within the NPPF and Policy NC1 (Biodiversity and geodiversity) of the Local Plan. A detailed landscape plan is considered through planning condition.

8. Arboricultural impact.

All trees on site are protected by virtue of being within a Conservation Area. The submitted Arboricultural Impact Assessment (AIA) states that the arboricultural impact of the development are generally low. The scale of tree loss (13) required to develop the site is low and the trees proposed for removal are all of low value and poor quality. The key trees will be retained within the proposed scheme. The retention of the key trees will screen the loss of the proposed vegetation that will be removed.

Although the building will be within shading influence of the trees to the south. The design incorporates window layout and design that maximises daylight and sunlight penetration, therefore shading from the trees is considered to be of limited concern.

The AIA is accompanied by a Tree Protection Plan, the recommendations in the AIA provide a mitigation strategy and measures to protect trees during the construction phase. Conditions ensuring the mitigation strategy and measures to protect trees on site is implemented are deemed necessary. A detailed landscape scheme is also deemed necessary through condition.

S106/CIL

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. If the application is deemed to be acceptable, an informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

With regards to affordable housing, Policy H2 (Affordable housing) states that the affordable housing requirement for a scheme of 15-19 dwellings on brownfield land is 15%. The applicant has submitted an Independent Viability Assessment which has been independently verified and confirmation has been received that the scheme would not be viable if affordable housing was provided. In accordance with the provisions of the Council's Planning Contributions and Affordable Housing SPD, a s.106 agreement will be required to ensure that the viability of the scheme is reviewed and a contribution towards affordable housing is paid if the scheme turns out to be more profitable than originally anticipated.

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 TH10 - Protection of the Historic Built Environment, requires development to conserve the character of the conservation area. The proposal is considered to be in accordance with the Torquay Neighbourhood Plan.

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.

List of Conditions

- o Works during Bird Breeding season
- o In accordance with recommendations in Ecological assessment
- o Bin and cycle store details
- o Boundary treatment details
- o Restricted use of third floor terrace & details of a scheme of obscure glazing
- o Parking areas and charging points to include one disabled space
- o Materials including walls
- o Landscaping
- o Access works
- o CMS
- o Demolition details
- o Obscure glazing/screening?
- o Finished floor levels

Condition(s)/Reason(s)

01. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) A demolition method statement
- b) The parking of vehicles of site operatives and visitors.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development.
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved statement shall be adhered to throughout the construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required pre-

commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

02. No development, other than demolition, shall take place until details of the proposed cladding materials (walls and roofs), boundary materials 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.

03. Notwithstanding the submitted details, prior to the first occupation of the development hereby permitted, provision shall be made for covered cycle storage 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.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 2, the erection, construction, or alteration of a gate, fence, wall or other means of enclosure shall not 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.

05. Notwithstanding the submitted landscaping details, prior to the first occupation of the development hereby approved, details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority, this shall include a scheme of landscaping for the internal courtyard. 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 visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

06. Prior to any works above damp proof course level, details of a scheme of obscure glazing in relation to the windows on the western elevation and restricted use of the third floor terraced area shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail how overlooking into the windows of Sandhurst Court will be minimised. The approved obscure glazing and restrictions shall be implemented in full prior to the first use of the associated dwellings, and shall be retained as such at all times thereafter.

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

07. The development shall be undertaken in strict accordance with the measures in the tree protection plan and those within the mitigation strategy and conclusions within the Arboricultural Impact Assessment Report.

Reason: To ensure trees are protected in the interests of biodiversity and visual amenity in accordance with policies SS10, NC1 and C4 of the Torbay Local Plan 2012-2030 and are required to be in place prior to commencement to duly protect the identified trees.

08. The development shall proceed fully in accordance with the assessment, conclusion/ recommendations detailed on page 7-8 of the Preliminary Ecological Appraisal (reference P2018-0962-2 received 19.09.2018) hereby approved.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Torbay Local Plan.

09. The development shall be undertaken in strict accordance with the submitted drainage details and retained as such at all times thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and advice within the NPPF

10. The development hereby approved shall be constructed in strict accordance with finished floor and ridge levels in relation to an agreed fixed point or O.S. datum which shall be submitted to the Local Planning Authority prior to any development other than demolition.

Reason: To ensure a satisfactory form of development that is in keeping with the area and does not impact upon the neighbouring existing dwellings, and to

ensure that the proposal accords with DE1 of the Torbay Local Plan 2012 to 2030.

11. Prior to the first occupation of any of the dwellings hereby approved, the parking facilities, electric charging points and works to the access shall be provided and thereafter permanently retained for the parking of vehicles in accordance with plans to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

12. 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 Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

01. 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). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
NC1 - Protected sites - internationally import
HE1 - Listed Buildings
H1 - New housing on identified sites
H6 - Affordable housing on unidentified sites
DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management

Application Number

P/2018/0996

Site Address

Combe Pafford School
Steps Lane
Torquay
TQ2 8NL

Case Officer

Ben Gilpin

Ward

Watcombe

Executive Summary/Key Outcomes

This planning application seeks permission for the formation of a synthetic sports pitch with associated fencing within the curtilage of Combe Pafford School. The pitch would be 58m by 38.75m (2015 square metres). No external lighting is proposed. The proposal is considered acceptable, having regard to the Torbay Local Plan, and all other material considerations.

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.

For the avoidance of doubt, as Sport England are objecting to the proposal, it will be necessary for the Local Planning Authority to consult the Secretary of State prior to issuing a decision (referral to the Secretary of State for option of Call In).

Reason for Referral to Development Management Committee

The site is in the ownership of the Local Authority.

Statutory Determination Period

28.11.2018

Site Details

The site comprises an area of grassland, used as a sports pitch, within the curtilage of Combe Pafford School, and located between the school buildings and Moor Lane. The site is visible from public vantage points, as well as residential properties to the east (on Steps Lane).

The site has no statutory designation constraints.

Detailed Proposals

This planning application seeks planning permission for the formation of a synthetic sports pitch with associated fencing. The pitch would be 58m by 38.75m in area (2015 square metres). The pitch would be enclosed by a 3 metre high fence. No external lighting is proposed.

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

Sport England:

Objection – repeatedly maintained (there is a deficiency in the provision of playing fields in the area of the local authority) **

Sport England state that:

“The proposal for a synthetic turf pitch with no lights and not suitable for affiliated community football has limited potential to meet E5 [Sport England Policy]. A new AGP [artificial grass pitch] would need to be ‘fit for purpose’ and meet the requirements for football match play, generate an income for operation including ‘sinking fund’ and be open to community use to meet the identified strategic need.

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields

Policy or with Paragraph 97 of the NPPF.”

** As Sport England have maintained their objection to the planning application, if members of the Planning Committee are minded to support the scheme and Officer recommendation, under Article 10 of the Town and Country Planning (Consultation) (England) Direction 2009 (on receipt by the Secretary of State (as per that prescribed by Article 10 of the aforementioned Order), the timeline detailed in Articles 11 and 12 shall then apply (Article 11 and Article 12 are detailed below for ease of reference):

11. Subject to paragraph 12 below, where, by virtue of paragraph 9, a local planning authority is required to consult the Secretary of State, they shall not grant planning permission on the application until the expiry of a period of 21 days beginning with the date which the Secretary of State tells the authority in writing is the date she received the material specified in paragraph 10 above.

12. If, before the expiry of the 21 day period referred to in paragraph 11, the Secretary of State has notified the authority that she does not intend to issue a direction under section 77 of the Town and Country Planning Act 1990 in respect of that application, the authority may proceed to determine the application.

TBC Drainage:

“Further to your letter dated 4th October 2018 regarding the above planning application I would like to make the following comments:

1. Within the flood risk assessment submitted with this application the developer has identified that surface water drainage from the development will discharge to the existing sewer system.
2. In accordance with the NPPF a sustainable drainage option must be investigated before a decision is made to connect to the sewer system.
3. The developer should investigate the possibility of discharging surface water from this development via soakaways. In order to confirm whether or not the ground is suitable for soakaways the developer should carry out trial holes and infiltration tests in accordance with BRE 365. If the ground is found to be suitable these infiltration tests will be used to design the required soakaway.
4. The design for these soakaways should be submitted showing that the proposed soakaway has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
5. Where the developer is proposing to use permeable paving, trial holes and infiltration tests in accordance with BRE 365 are required at the formation level of the permeable paving. The infiltration rate must be used in the design of the permeable paving which must be submitted showing that it has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.

6. Only if the ground conditions are unsuitable for a sustainable drainage system should the surface water be drained to the sewer system.
7. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 40% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec.
8. The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above comments, before this planning permission can be granted the applicant must supply details to address all the points identified above**.”

** - NOTE – clarity on status was sought from TBC Drainage re: position of comments (following mid deliberation hand over between Case Officers). The response, as received on 26.03.2019, is as follows:

No objections subject to the use of a planning condition to secure final surface water drainage details.

TBC Highways:

No comments received

TBC EHO:

“I do not wish to object to the proposed development, but note that the proposed Artificial Grass Pitch (AGP) is very close to existing residential properties at Steps Lane.

The proposed application, on the face of it, could represent a significant extension of activity on the site. Were the site to be used to its fullest extent, residents would not get sufficient peace to enjoy their outdoor amenity space. Given the proximity of the AGP to the houses it is doubtful residents would be able to open windows to the rear of their properties without having their peace disrupted. It would therefore be appropriate for restrictions to be put in place to balance the residential amenity with the use of the AGP.

To that end, I would recommend that a restriction be placed on the use of the AGP and associated play area limiting its use to between the hours of 09.00 to 18.00 Monday to Friday and 09.00 to 13.00 on Saturdays with no use on Bank Holidays.”

Devon & Cornwall Constabulary:

No objection.

“Thank you for the opportunity to comment on the above. From a designing out crime and disorder perspective I would like to advise that the police have no concerns with regard to the proposal and support the proposed 3m high galvanised mesh steel fencing in creating a safe and secure enclosure for the required use.”

Summary Of Representations

1 x letter of objection received, citing:

- Amenity (Noise / Light)
- Visual Impact (from fence)
- Highways

Relevant Planning History

The site has no directly applicable planning history.

Key Issues/Material Considerations

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

1. Principle of Development

The proposal is for planning permission for the formation of synthetic sports pitch with associated fencing within the curtilage of a school.

There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual Impact

Paragraph 17 of the National Planning Policy Framework (NPPF) states that one of the core land-use planning principles that should underpin decision making is to secure high quality design. In addition, paragraph 64 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. 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 objection received has stated the installation of the 3 metre high fencing would be incongruous and to the detriment of the character of the area.

In this instance, with the fencing proposed being set away from the highway, the local authority could erect a fence to a height of 3 metres in this location, as such works are permitted by Class A, Part 12, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (such fencing conditioned to a height of 4 metres).

In any case, it is considered that the development would not result in unacceptable harm to the character or visual amenities of the locality, given the siting, scale, and design of the proposed fencing and pitch.

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

3. Amenity

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

An objection to the scheme has been raised stating that the scheme, without flood lights, would not serve the wider community, and as such the scheme should have floodlights, and if it did have floodlights then these would be to the detriment of amenity.

In this instance the application does not propose the installation of flood lights.

The Sport England objection relates to the loss of a grass pitch (they can object whether the site is in public or private ownership), and its replacement with astro-turf, and the consideration of their objection is detailed below.

In terms of amenity, with school use proposed, on a pitch without flood lights, the impact on local and neighbouring amenity would be limited. The noise levels likely to be generated would be comparable to the levels that might already be experienced through the school's current use of the existing sports pitch. Following the comments from the Council's Environmental Health Officer, a condition can be imposed to further reduce the proposal's impact by restricting the hours of use.

Subject to the use of the aforementioned condition; given the proposal's siting, scale, and design; and considering the existing situation at the site, it is considered that the proposal would not result in unacceptable harm to local or neighbouring amenity. As such, the proposal is in accordance with Policy DE3 of the Local Plan.

4. Flood Risk and 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.

It is noted that TBC Drainage have requested further information prior to the scheme being determined. The site is in Flood Zone 1 but is also identified as being in the Torbay Critical Drainage Area (CDA).

It is advised within the submitted FRA that the surface water from the current pitch collects in the existing drainage system that serves the tarmacadam tennis courts.

It is accepted that a request from the Drainage Consultee requested further information prior to determination (this having been confirmed in a response received on 21.03.2019). However, it is not considered unreasonable to secure this information, and establish the acceptability of a drainage system, by way of a Prior to Commencement planning condition.

This would afford the applicants the comfort of knowing the scheme is acceptable in principle, but would require works in accordance with the condition to be submitted, and approved in writing, before development can commence. This ensures control is retained by the Local Authority, and protects others from implications of surface water run-off.

Subject to the inclusion of an appropriate drainage planning condition, the proposal is therefore considered to be in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

Other Considerations

Sport England Objection

Sport England have summarised in their objection that the scheme proposed would not meet with any of the Exception Tests (detailed in their 'Playing Fields Policy and Guidance' document (March 2018) nor paragraph 97 of the National Planning Policy Framework.

In this case, Exception 5 is most relevant. It reads:

“EXCEPTION 5

The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to

outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.”

At present the pitch is associated with, and ancillary to, the school.

It is noted that, historically, the pitch has been made available to external users (Watcombe Wanderers Under 10's).

The Design and Access / Planning Statement that has been submitted in support of the proposal has stated in section 2.3 that ‘The school wishes to upgrade / enhance the facility ... to allow greater use of the pitch throughout the year (due to current drainage issues on site, the field is unavailable for use for approximately 6 months during the school term [year]’.

In this instance the proposed development seeks to allow for improved surfacing to allow for continued outdoor sporting use. In this case, with outdoor sporting use of the current playing field being limited to only drier times of the year, the proposed surface will allow greater use and levels of outdoor activity for the pupils of the school, which would be to their benefit in terms of their health and well-being.

Such an evident benefit is considerable and is deemed sufficient to outweigh any perceived detriment caused by the loss of a playing field covered by grass (knowing that the same playing field is to be covered by an all-weather surface so allowing greater periods of sporting use by the pupils at the school.

Sport England have also cited paragraph 97 of the National Planning Policy Framework (NPPF), suggesting the proposed development would be contrary to the objectives contained with the paragraph. For ease, it reads:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”

In this instance two aspects need to be considered.

Firstly, does the proposed replacement actually qualify as ‘building on existing playing fields’. In this instance, the replacement of an existing surface for an alternative surface, that would maintain the area as a playing pitch, is not

considered to be a development that results in the loss of a playing field. In this regard the proposal is considered to be one that accords with paragraph 97 of the NPPF. In addition, relating to sub-section 'b', it is not considered the proposed development results in a loss of playing field.

Secondly, it is accepted the development could be used for alternative sports (but still include football, albeit not to the standards the Football Association (FA) would want). However, football could still be played on the new surface, as well as a variety of other sports. In relation to sub-section 'c', the change of surface may result in the loss of a pitch that had been used once by an under-10's football team, but the new playing surface would benefit the school and its pupils who, by virtue of their moderate learning difficulties / physical difficulties / complex needs or having Autistic Spectrum Condition (ASC), would benefit considerably from the opportunity to use a playing surface year round.

Knowing the above it is considered the benefits would be significant, and they would outweigh the loss of the current use as a grassed playing field. The site will still be used for sport and recreation after the development, and will be available for the use of the school throughout the year.

In summary it is considered the proposed development would accord with the Exceptions Tests, as well as meeting the criteria detailed in the NPPF. Planning officers consider that the benefits of the proposal would outweigh the harm caused by the loss of a grass pitch, even if this results in there being less benefit to the wider community.

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.

The relevant policies for this application are Policy TSL3 (Sport and Leisure – Sports Grounds and Facilities) – which seeks to ensure development does not result in the loss of existing playing fields.

This policy states the loss of any other existing playing or sports field will not be supported, unless replaced by equal or better facilities in equally or more easily accessible locations in the Neighbourhood Area. The development seeks to expand opportunities for less able members of society to enjoy and participate in sporting activities, at the same time retaining the area for recreational use, and improve its usability throughout the year. The proposal is therefore considered to

accord with the emerging Torquay Neighbourhood Plan Policies.

Local Finance Considerations

S106/CIL –

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

Statement on Human Rights and Equalities Issues

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

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

EIA/HRA

EIA:

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

Conclusions

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

Condition(s)/Reason(s)

01. Drainage

Prior to the commencement of the development hereby permitted, a comprehensive drainage strategy shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken in accordance with the approved the drainage strategy, which shall be implemented in full, and retained in perpetuity. The drainage scheme shall address and detail the following elements:

- The developer should investigate the possibility of discharging surface water from this development via soakaways. In order to confirm whether or not the ground is suitable for soakaways the developer should carry out trial holes and infiltration tests in accordance with BRE 365. If the ground is found to be suitable these infiltration tests will be used to design the required soakaway.
- The design for these soakaways should be submitted showing that the proposed soakaway has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
- Where the developer is proposing to use permeable paving, trial holes and infiltration tests in accordance with BRE 365 are required at the formation level of the permeable paving. The infiltration rate must be used in the design of the permeable paving which must be submitted showing that it has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
- Only if the ground conditions are unsuitable for a sustainable drainage system should the surface water be drained to the sewer system.
- As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus 40% for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec we would accept a discharge rate of 1.5l/sec.
- The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 40% for climate change.

Reason: In the interests of mitigating impacts from surface water drainage and in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

02. Hours of Use

The sports pitch shall only be used for sports between the hours of 09.00 and 18.00 Mondays to Fridays; and between the hours of 09.00 and 13.00 on

Saturdays, with no sports use on Sundays, Bank or Public Holidays.

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

03. Standard of Works

The sports surface hereby approved shall be installed in accordance with the standard identified in the Sport England 'Artificial Grass Pitch (AGP) Acoustics - Planning Implications' guidance (2015), and such works are to be fully completed before first use, and thereafter retained.

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

Informative(s)

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

Relevant Policies

DE1 – Design

DE3 – Development Amenity

SS3 – Presumption in Favour of Sustainable Development

ER1 – Flood Risk

ER2 – Water Management

SC2 – Sport, leisure and recreation