

Application Number

P/2012/1155

Site Address

Dainton Self Store Ltd Torre Station Yard
Newton Road
Torquay
Devon
TQ2 5DD

Case Officer

Mr John Burton

Ward

Cockington With Chelston

Description

Change of use from B8 storage to C3 dwelling houses and formation 8 townhouses with 3 storeys and 3 bedrooms with integrated garages and off street parking and 1 single storey bungalow with 3 bedrooms with pedestrian access

Executive Summary/Key Outcomes

The application site and adjoining land in the same ownership has a B8 (storage or distributions) use permission, which has been implemented. The application site itself is at the margins of the storage use and other commercial/business uses that exist at Torre Station and so is not considered to be integral to the function and performance of the area's business prospects. The site has been untidy and under utilised for some time now and would benefit from being brought back into a good use.

Residential use is considered to be acceptable because the site is immediately adjacent to the long established residential development at Crownhill Rise. The proposed design is in keeping with local scale and appearance, and is shown to a high standard including thought having been given to energy efficiency. The proposal takes advantage of the ability to have a relatively high density of development, but still fits within national and local guidance in this respect. The development will provide the size and type of accommodation which is needed in the Torbay housing market.

It is not considered that the development would substantially prejudice the future development of the wider site, if this were proposed. In fact, the intended improvement of the access under the railway bridge will enhance the vehicular access to serve the site. In any event, it is not considered given the circumstances, that the development of this site could be held in abeyance given that there are no current plans or projects on the wider site and given the presumption in favour of sustainable development.

It is considered that there are no interests of acknowledged importance that

would be adversely impacted by this proposal, and issues which have arisen can be handled by use of conditions. The proposal qualifies for a Planning Obligation in order to defray the costs that would arise from the development.

Recommendations

Site Visit; Conditional Approval (conditions at the end of the report); subject to the further views of the Environmental Health Officer (with respect to potential land contamination), and the successful signing of a Planning obligation under s106 of the Act within 3 months of the date of this committee meeting or the application be refused for lack of a s106 agreement.

Site details

Site of approximately 0.23 hectares in size, accessed off Cleveland Road (a small access road off Avenue Road), immediately on the western side of the Newton Abbot/Paignton railway line. The land slopes from the east to the west of its width by approximately 3 metres.

The land is currently owned by Dainton Group Services Limited who acquired the land from Network Rail, but who reserved rights of access over part of the site. The land had previously been railway sidings. The Dainton Group also owns a lot of land to the north of this current application site, from where they currently operate a self-storage business. This business has been at this site since approximately 2003.

There is a narrow strip of land immediately due south of the site which is in the Council's ownership and links to the Rowcroft land further up. It is a green corridor that has been used as a footpath in the past, although has now been closed for some time and is currently overgrown. On the other side of this strip are the properties on Crownhill Rise.

The site is not within a designated Conservation area, but does lie adjacent to the Torre Conservation Area. Torre Station is a listed building, primarily for its historic connections with I. K. Brunel.

Detailed proposals

Full planning permission is sought to change the use of this land from B8 storage use (as defined by the Town and Country Planning, Use Classes Order) to a C3 residential use, in order to facilitate the development of a terrace of 8 dwelling houses and a free-standing bungalow, making 9 units in total. The plans show the terrace to be 3 storey dwellings with integrated garaging and driveways at the front for additional car parking. The plans indicate a minimal amount of soft landscaping at the fronts of the dwellings, but each property would have rear gardens running down to the Council owned footpath behind.

The dwellings are shown arranged with a stepped terrace footprint, with the land cut and filled to negate the existing slope of the land. The material palette shows

predominantly rendered elevations with contrasting timber effect and plain pre-coloured fibre-cement panels, painted timber windows, and interlocking plain grey concrete tiles for roofing.

Access to the site is under the existing railway bridge and this will remain the case. Pedestrian access to the Crownhill Rise alley way in between nos. 8 and 9 is shown provided by a new foot and cycle path off Cleveland Road running down to the Council owned 'green corridor'. This new footway/Council footpath system would also provide access to the rear of the proposed properties. Access to the rear gardens from within the new dwellings themselves would be via the first floor living room (ground floor at the rear, first floor at the front, due to the level of the land).

The site would have close proximity to public transport links (buses and trains), and good access to local amenities and services.

Summary of consultation responses

Network Rail Observations awaited.

Highways Officer No objections in principle, but would need to see the highway (Cleveland Road) improved to bring it up to adoptable standard.

Strategic Transportation No objections in principle. Seeks s106 monies to enable a cycle path to be formally provided down from the Rowcroft Land around this site and up to Avenue Road (as part of a wider Council scheme to eventually link the sea front to Torbay Hospital).

Arboricultural Officer The site contains no trees of merit and only smaller self set trees and scrub bound the site which offer little potential. There is a large TPO woodland to the north-west which does not form part of the proposal site and which will be unaffected by the proposed development.

Environmental Health Officer (Community safety) The site may contain underground storage tanks in situ associated with the former use of the land as a train sidings. A previous use as a coal merchant's depot also has the capacity to make the land contaminated. Therefore, the observations of the Environmental Health Officer regarding potential pollution and any required clean-up are required. These are still awaited.

Summary of representations

Letters of representation have been received and are reproduced at page T.206. The gist of the comments made can be summarised as follows:-

- Objections to the footpath between the site and Crownhill Rise being re opened;

- Objection to the bungalow, believes this to be an additional dwelling to the previous proposal and as such would have greater traffic impact upon the junction with Avenue Road;
- Concerns that this proposal may lead to more applications by Dainton for housing at their Torre Station site;
- Will obscure views from properties in Crownhill Rise;
- Noise and light pollution during construction and afterwards;
- 3 storey nature of the proposal would impact upon privacy and light to the properties in Crownhill Rise;
- The comments made in the 'Statement of Community Involvement' are not an accurate reflection of neighbours' concerns
- Do not need any more families in this rural area;

Relevant planning history

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|-------------|--|
| P/2011/1158 | Change of use from B8 storage to C3 dwelling houses; formation of 10 town houses with 3 storeys and integrated garages and off street parking. Application eventually withdrawn by applicant due to on-going contractual difficulties with Network Rail - understood to now be resolved. |
| P/2008/0754 | Removal of condition 2 (ref app no P/2008/0293/PA) re temporary permission for use of land for containerised self storage, Refused permission 26/06/2008 but allowed on appeal by decision notice dated 15/05/2009 |
| P/2008/0293 | Use of land for containerised self storage. Approved 16/04/2008 for a temporary period not exceeding 1 May 2013 |
| P/2002/2014 | Use of land for containerised self storage 20.02.2003 (condition 2 stating that the use shall be temporary up to 1 March 2004). |

Key issues/material considerations

Principal and planning policy

Employment Land

The land is zoned in the Saved Adopted Torbay Local Plan as being a Business Investment Area (policy E3.5), in which employment uses should be retained and developed. However there are no employment uses on this parcel of land or any of the Dainton Group land of which this is a part. Although there is a limited amount of management and security associated with the storage use, this cannot be considered to be an employment generator.

Policy E3 does go on to say that small scale warehousing uses (B8) will be

permitted in the Business Investment Areas, and the Council has authorised such a use at this site on a temporary basis. Attempts to make the containerised storage use permanent were resisted by the Council, but allowed on appeal (see Inspector's decision reproduced at page T.206). Therefore the site has little employment benefit, and it is difficult to see how this could be changed given that the site is in private ownership and operating a lawful B8 use. It therefore has to be concluded that it would be very difficult to enforce the terms of policy E3 on the current proposal site, without making a Compulsory Purchase Order. This is unlikely to be part of the Council's thinking.

Housing Policies

In housing policy terms the proposal is clearly consistent with the aims of the housing chapter of the Saved Adopted Torbay Local Plan. There is no conflict with policy HS (Housing Strategy), because the proposal would be providing open market family housing of the type needed in Torbay, securing a balance between new housing and the protection of environmental quality, maximising the re-use of urban brownfield land, resulting from a sequential approach to housing provision.

Likewise, the proposal meets the terms of policy H2 (New housing on unidentified sites) because the proposal promotes sustainable development, contributes to the provision of a full range of house types, re-uses urban 'brownfield' land in a sequential and sustainable manner, has good public transport accessibility, has good access to infrastructure and community provision, and promotes good design and energy efficient dwellings.

The proposal is also considered to be in accordance with policy H9 (Layout design and community aspects) because a strong emphasis has been given to the design of the new dwellings. The proposal does not breach the requirements of policy H10 (Housing densities) because it would be developed at a medium density (equivalent to 35 dwellings per hectare of land) but consistent with key environmental objectives. This is in accordance with National Planning Policy Framework. The scheme makes little provision for amenity open space, play areas, wildlife areas and landscaping in accordance with policy H11 (open space requirements). However this can be overcome through appropriate provisions within the Planning Obligation (under s106 of the Act).

The proposal will need to show compliance with policy CF6 (Community Infrastructure Contributions), but this can also be achieved.

Ecology

A small portion of the proposal site in the east is part of a larger wildlife site. However, given the B8 use that could lawfully operate at the site, the nature of previous uses of the site, the fact that there is no evidence of any important species on site, the openness of the site, potential historic pollution at the site and the amount of hard surfacing within the site, it is not felt appropriate to invoke

policy NC3 (Locally important protected sites).

Energy Efficiency

The proposed dwellings have an energy efficient design (see 'Environmental Impacts' below) and so meet the terms of policy EP1. Although this site has a B8 permission controlling its use, it has not been used as such. The site used to be overgrown, was subject to fly tipping and has most recently been used for the storage of vehicles. It does still contain some remnants of former structures, and is generally in an untidy state. On this basis, the proposal would accord with the provisions of policy EP6 (derelict and under-used land).

Contamination

It is likely that the risk of the site being contaminated is low, and it is noted that there are residential properties in the immediate area (to the south) anyway. However, given previous uses for the site, the applicant has undertaken a desk top study and intrusive ground investigation to establish the likelihood of contamination and to suggest mitigation and remediation measures. This still needs to be checked and authorised by the Environmental Health Officer. His views will be reported to members in order to check compliance with policy EP7 (contaminated land) of the Saved Adopted Torbay Local Plan.

Design

The design and choice of materials is considered appropriate, providing a continuation of the design themes established in Crownhill Rise. Overall the scheme will enhance the existing character of the area. The design and appearance is typical of many developments throughout Torbay, but by adding colour and interest to the street scene will create its own sense of place. The site is not within a Conservation Area, and far enough removed from Torre Station itself so as not to impact upon the setting of this listed building. It is therefore considered that the proposal would meet the requirements of policies BES and BE1.

Highways and Parking

The proposal includes off-street parking to standard and has a suitable access, although this will need to be upgraded in accordance with the comments provided by the Highway Authority. It is noted that the Highway Authority is not objecting to the proposal and Strategic Transportation are in general agreement. It has been suggested that the proposal should be accompanied by a Planning Obligation that makes provision for a sustainable contribution to assist in improving local footpaths and cycle ways. With all of these factors in mind, it is concluded that the proposal would be in accordance with Transport and accessibility policies T3 (cycling), T10.1 (Torre Station transport interchange), T25 (car parking) and T26 (access).

Impact on future opportunities

This site was identified in the 'Action Framework Plan' supporting the previous

Mayor's Vision as a development site. It was seen very much as a gateway site for Torbay and remains as such in current thinking as the Local Plan and Neighbourhood Plans progress. It is not considered that this scheme would prejudice the potential for the redevelopment of the wider site for a mix of uses and in any event, given the presumption in favour of sustainable development set out in the NPPF, a refusal on that basis would be unlikely to succeed at appeal.

In conclusion, the proposal is not considered to be in breach of any of the relevant adopted policies and can therefore be considered to be acceptable in principle, notwithstanding the policy designation over the site.

Impact on neighbouring properties

The southern elevation (rear) of the terraced properties proposed are only two storeys in height, plots 1 to 8 being more than 20 metres away from the nearest neighbouring houses in Crownhill Rise. The bungalow (plot 9) would be 12.5 metres away from the nearest part of the dwelling behind, but by its single storey nature has a lesser impact. This is considered to be acceptable in terms of potential for any overlooking and loss of amenity.

Some of the representations received have made objection on a perceived loss of outlook that would arise if this application were to be approved, but Members will be aware that no one individual or property has a right to a view in planning law. Whilst the general outlook will change, it is not considered, given the distances and relative heights involved, that the impact would be to the detriment of the living conditions of the adjacent occupiers. It should also be noted that the visual amenities of the site would be improved by the proposal, as currently the site consists of uneven ground covered in stone chippings and the remains of demolished buildings.

Economy

Although the site benefits from planning permission for B8 storage use and more recently permission for containerised self storage use, this is a very low employment generator. The main containerised storage area of the Dainton Group is utilised by local businesses and so does impact obliquely upon employment and business. Furthermore, given the lawful consent that has been established, it is unlikely that the whole site would go to employment uses in the future and far more likely that a mix of appropriate uses would be established. The application site itself is subsidiary to the main trading and container site, storing vehicles and caravans. As such, it is considered that there are no implications to the economy of Torbay in converting this part of the wider site to residential use.

Environmental impacts

The proposal is a redevelopment of a brownfield site currently consisting of uneven ground covered in stone chippings with the remains of some demolished buildings scattered around. This can be considered a sustainable solution to

fulfilling local housing need, and is certainly making full and effective use of urban land in a manner, that is sequentially more preferable to building on 'greenfield' land or countryside.

The proposed layout and configuration of the houses on the site with south facing gardens, living and bedroom spaces will help to improve the energy efficiency of the houses through natural solar gain and ventilation.

The application is accompanied by an 'Environmental Noise Statement'. This takes on board the proximity of the proposed dwellings to the Paignton/Newton Abbot railway line. The statement concludes that there could be some impact and so the design of the dwellings has been developed to take this into account as mitigation measures have been incorporated into the design. It is considered that these measures are sufficient to ensure that the amenity of any future residents will be protected and a good standard of acoustic environment can be delivered. This would meet with the terms of Saved Adopted Torbay Local Plan policy EP4 (Noise). However, its implementation will be largely down to the Building Regulations.

The site is not within an identified flood risk area.

Planning Obligation

It is the Council's policy to seek appropriate financial contributions from developers under s106 of the Town and Country Planning Act 1990 and the legislative requirements of Part 11 of The Community Infrastructure Levy Regulations 2010, towards community infrastructure stemming directly from development and in terms of the resultant pressures on local social, physical and environmental infrastructure.

The Council has decided in line with Central Government legislation and advice from the (former) Government Office for the South West that the true cost of any development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. This is made quite clear in policies CFS, CF6 and CF7 of the Saved Adopted Torbay Local Plan. The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of last year (2011), and stipulates that contributions due for residential proposals are now based on floorspace to be created. The terraced units (P1 - P8) have a floor area of approx. 136.5 sq. metres and so would fit into category 5. The single storey bungalow has a floor area of approx. 77 sq. metres and so falls within category 3.

Category 3 (75 – 94 Sq. M.)

Municipal waste and recycling	£ 50
Sustainable transportation	£2350
Education	£ 830
Lifelong learning	£ 300

Green space and recreation	£2050
TOTAL (unit bungalow)	£5580

Category 5 (120 Sq. M. +)	
Municipal waste and recycling	£ 50
Sustainable transportation	£3610
Education	£1660
Lifelong learning	£ 470
Green space and recreation	£2370
TOTAL £8160 x 8 units	£65280

This gives a total combined developer contribution of £70860.

However, the applicant would need to do a lot of off site works along Cleveland Road in order to make the access acceptable to the Highway Authority. The improvements to the access will provide improvements that will benefit the wider site and as such in practice these physical improvements will amount to both a site acceptability matter and an off site contribution to mitigate the transport impact of the development. Site acceptability measures are usually given precedence over other obligations and on this basis it is not felt appropriate to also charge a 'Sustainable Transportation' contribution.

This would bring the figure due down to £55230. Officers are also currently in negotiations with the Head of Schools Commissioning to see whether or not the education contribution is applicable. This could bring the amount down even further. It is important that the amount sought relates to actual requirements in order to prevent a successful challenge on appeal.

The Strategic Transportation Group have recommended that the 'Green Space/recreation' contribution should be used as a contribution to improve the adjacent National Cycle Route NCN28, which would eventually link Shiphay Lane along the path at the rear of the site to the town and beach via Avenue Road and Newton Road. Funding for the remainder of the NCN project will be from a mix of similar SPD contributions in areas local to the route supported by LTP funding and the Local Sustainable Transport Fund secured by this Council. It is in line with LTP Policy to improve cycle routes in the town centres, promote more sustainable travel and reduce reliance upon the car for site users. Focus has traditionally been on improving bus stops, infrastructure and services, however, this has been at the expense of cycling which now needs to be rectified, especially from the point of view of helping the tourist economy, improving the environment, and reducing traffic congestion. This particular scheme is also advantageous in terms of not affecting any parking and should be implemented within 5 years of receipt of funding. It is considered that in this instance, it would be appropriate to use the greenscpae contribution to improve this recreational

corridor.

Conclusions

The proposal is considered acceptable in policy terms. The land is not used for employment purposes despite its zoning as a Business Investment Area, and the Council has little control over its future use given that it is in private ownership. The site is currently deleterious to the local environment and would benefit from investment and development. There are no wildlife or tree issues that would prevent development. The applicant has agreed to a Planning Obligation to defray costs that will arise from the proposal, this will include the provision of the cycle route to the side of the site, the improvement of the route to the rear of the site, off-site contributions and off-site highway improvements. The application will provide housing of the sort required by the local housing market. The proposal does therefore appear to be acceptable in principle, in policy and in detail. However, there have been a number of objections to the proposal and it is therefore appropriate for members to undertake a site visit to assess these concerns for themselves.

Condition(s)/Reason(s)

01. The development hereby approved shall not be commenced until details of the colour type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

02. The development hereby approved shall not be used or occupied until all of the garages, driveways shared surface parking zones and access thereto shown on the approved plans have been provided and made available for use. These areas shall be kept permanently available for parking and access purposes to serve the development at all times thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Saved Adopted Torbay Local Plan, in the interests of highway safety.

03. The development hereby permitted shall not commence until the applicant (or any future successors in title to the land) has entered into an agreement with the Highway Authority pursuant to s278 of the Highways Act 1980, providing for

resurfacing of Cleveland Road, an extension to the shared use path, a turning head, and other highways works required to make Cleveland Road adoptable. These works shall be provided in full and made available for use before any of the dwellings hereby granted permission are used or occupied.

Reason: The permission hereby granted would only be acceptable if Cleveland Road is made up to an adoptable standard in accordance with policies T1, T3, T20 and T27 of the Saved Adopted Torbay Local Plan. However, the land upon which these works would be required is not within the applicant's ownership. Therefore the Council requires assurance through the provisions of such a legal agreement that the works will be carried out.

04. Development shall not begin until a remediation statement to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The above statement shall include a report of the investigation and assessment work undertaken, identifying the extent of any contamination at the site and the measures to be taken to comply Part IIA Environmental Protection Act 1990. The development shall not be used or occupied until the measures approved in the statement have been implemented and the validation process has been completed.

Reason: To ensure that there is no risk from land contamination in accordance with EP7 of the Saved Adopted Torbay Local Plan.

05. Any activities that are likely to negatively impact upon the woody scrub at the site, particularly where involving vegetation clearance, should occur outside of the accepted bird nesting season (1st March to 30th September). If this is not practicable, activities should be preceded by a thorough inspection for nesting birds undertaken under an Ecological Watching Brief with a suitably qualified competent professional advising on the works on site and such clearance works shall only take place where there are no nesting birds present. If nesting birds are discovered, activities must be halted until nested chicks have fledged.

Reason: In order to avoid damage to any breeding bird or its nest thereby avoiding any potential conflict with the Wildlife and Countryside Act 1981, policy NC5 of the Saved Adopted Torbay Local Plan, and to accord with the findings of the 'Extended phase one habitat survey' (conducted for the site in August 2012).

Informative(s)

01. The applicant is hereby reminded that he/she is responsible for any negotiations with Network Rail that may be required for works in the vicinity of the bridge. This must include assurances that permission to adopt any land as public highway is possible over a Network Rail easement. The bridge will at the very least need to be checked and signed with the height restriction.

Relevant Policies

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