

P/2011/0395/MPA

Goodrington With Roselands Ward

Totnes Road Service Station, Site Adj 141 Totnes Road, Paignton

Extend time limit - redevelopment to form 14 flats with parking and vehicular/pedestrian access -application P/2007/1370/PA

Site Details

Level site previously occupied by a garage, and now occupied by an American Diner (restaurant and take away). Situated on the south side of Totnes Road, east of Primley Cross. The site is adjoined by Hayes Road Primary School to the east and a block of flats known as Hayes Court to the rear. To the west are residential properties fronting Totnes Road and to the north (other side of road) is Primley Woods.

Relevant Planning History

P/2005/1398/PA Redevelopment to form 14 flats with parking. Conditionally approved by notice dated 4/11/2005, subject to Section 106 Agreement regarding education, public transport and public open space contributions.

P/2007/1370/PA Redevelopment to form 14 flats with parking (resubmission of earlier application). Conditionally approved by notice dated 15/4/2008, subject to Section 106 Agreement regarding education, public transport and public open space contributions.

Relevant Policies

Torbay Local Plan 1995-2011 –

H2 New housing on unidentified sites
H9 Layout, design and community aspects
H10 Housing densities
H11 Open space requirements for new housing
CF6 Community infrastructure contributions
CF7 Education contributions
BES Built environment strategy
BE1 Design of new development
T25 Car parking in new development

Proposals

The current proposal seeks to extend the time limit for implementation of the previous application approved 15th April 2004 for redevelopment of the site with 14 flats and vehicular parking. There is a presumption that such applications can be approved, effectively renewing planning consent, unless circumstances and/or acknowledged material considerations have altered in the intervening period and now indicate differently.

Consultations

None

Representations

3 letters of representation have been received, and are reproduced at page P.201 The issues raised relate to highways, proximity, loss of light, overlooking, drainage, property values and loss of view issues, all of which were considered and dealt with when the application was first approved. As this current application only seeks an extension of time for implementation, the issues raised by the representations would only be relevant if they related to issues for which there had been a significant change in circumstance. Officers do not believe that this is the case.

Key Issues/Material Considerations

There is an assumption with applications to extend time limits that permissions will be likely to be renewed unless there has been a change in the intervening period to either planning policy or some other interest of acknowledged importance that would indicate otherwise. The main issue in consideration of this application is therefore whether or not any such material circumstance has changed since the last approval that would indicate that this proposal should not be allowed a further period of time for implementation.

The principle and details of this development have already been established by the previous 2 permissions and there is no change in these regards. It is true that the Torbay housing market currently has an over supply of flats and a desperate shortage of family sized homes, however, given that the proposal includes a mixture of flat sizes, it is not considered that this is an issue with this proposal.

The only other change in circumstance that would impact upon consideration of such an application relates to the Planning Obligations under s106 of the Town and Country Planning Act. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ("Planning Contributions and Affordable housing: Priorities and Delivery"). The 'Planning contributions and affordable housing supplementary document, update 2: Economic Recovery Measures', was adopted by the Council in June of last year (2010). The amount of the required 'developer contribution' for the current application should therefore be evaluated in line with this adopted revision to the policy.

The previous application, approved on 15th April 2008 was accompanied by a Legal Agreement confirming payment of a Planning Obligation as follows:

Education contribution	£22400
Public open space contribution	£3680
Sustainable transportation contribution	£3200
Highways (zebra crossing on Totnes Rd)	£6785
Highways (cycle lanes in Totnes Rd)	£7000
<i>Highways subtotal</i>	<i>£13785</i>
TOTAL	£43065

According to the 'Planning contributions and affordable housing supplementary document, update 2', adopted by the Council in June 2010, contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size. On this basis, the contributions due for the current proposal would work out as follows:

Category 1 (45 – 54 Sq. M.)	
Municipal waste and recycling	£50
Sustainable transportation	£1260
Stronger communities	£90
Education (primary only)	£0
Lifelong learning	£160
Green space and recreation	£550
TOTAL	£2110 x 1 unit = £2110

Category 2 (55 – 74 Sq. M.)	
Municipal waste and recycling	£50
Sustainable transportation	£1720
Stronger communities	£130

Education (primary only)	£410
Lifelong learning	£220
Green space and recreation	£1120
TOTAL	£3650 x 8 units = £29200

Category 3 (75 – 94 Sq. M.)	
Municipal waste and recycling	£50
Sustainable transportation	£2350
Stronger communities	£170
Education (primary only)	£830
Lifelong learning	£300
Green space and recreation	£2050
TOTAL	£5750 x 3 units = £17250

Category 4 (95 – 119 Sq. M.)	
Municipal waste and recycling	£50
Sustainable transportation	£3610
Stronger communities	£200
Education (primary only)	£1660
Lifelong learning	£470
Green space and recreation	£2370
TOTAL	£ 8360 x 2 units = £16720

This gives a total contribution due of (**£ 2110 + £29200 + £17250 + £16720**) = **£65,280**.

The applicant has been asked to confirm that they will be prepared to enter into an agreement to make and sign this Planning Obligation. Their response will be reported to Members at the meeting. Members should be aware that failure to agree the Planning Obligation should be considered as being contrary to policies CF6 and CF7 (Community Infrastructure and Educational Contributions) of the Saved Adopted Torbay Local Plan.

A change of use has taken place on the site since the last approval in 2008 and is currently occupied by the 'Ritchies Diner', also previously known as 'Caseys American Diner'. This is an American themed restaurant. It is understood that the owner only leases the land, and as such this would not prevent the current application being considered. However, the tenant has a right to be notified by the applicant of the intention to make the application. The agent has been contacted to ensure that this has occurred as specified by Regulation 11 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

Sustainability - The proposal makes better use of the land and could therefore be argued to be more sustainable than the existing use on the site.

Crime and Disorder - Not expected to be an issue, but either the developer or any future occupier will have to ensure proper security for each flat and the site in general. .

Disability Issues - The site is on the level and there is not considered to be an overriding objection.

Conclusions -

The principle of this development has already been established through the previous approvals.

There will be a requirement for a Section 106 Agreement and Committee will be updated on negotiations in this regard.

Recommendation

Subject to the signing of the s106 agreement in terms acceptable to the Executive Head of Spatial Planning by 11 July 2011; Conditional Approval, with conditions as set out with the previous approval.

Condition(s):

01. The development hereby approved shall not be commenced until details of all proposed boundary walls have been submitted to and approved by the Local Planning Authority. The rear boundary wall shall be 2 metres high to the adjoining car park of Hayes Court. The flats shall not be occupied until all boundary walls have been provided in accordance with the approved details and the approved details in this regard shall be maintained at all times thereafter.

Reason: In the interests of the amenities of the area and to comply with Policy H9 of the Saved Adopted Torbay Local Plan 1995-2011.

02. 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, identifying the extent of contamination and the measures to be taken to comply Part IIA of the 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 and to comply with Policy EP7 of the Saved Adopted Torbay Local Plan 1995-2011.

03. Prior to the development being occupied, or at such other time as may be agreed by the Local Planning Authority in writing, a sustainable drainage solution such as a soakaway, designed and constructed in accordance with Building Research Establishment Digest 365; or a Sustainable Urban Drainage System, in accordance with Construction Industry Research and Information Association Document 522 for surface water disposal, (Clean surface and roof water should be kept separate from the foul drainage system), should be installed and the system should be maintained effective at all times thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPG25 "Development and Flood Risk" and policy EP11 of the Saved Adopted Torbay Local Plan, both in respect of sustainable drainage. For more information, please see Environment Agency "E8 General Surface Water Drainage Information" enclosed.

04. The windows indicated on the plans hereby approved as being finished with obscure glazing shall be finished to a level of obscurity equivalent to Pilkington level 5 before any of the units hereby approved are first used or occupied. This form of glazing shall then be retained as such at all times thereafter.

Reason: In the interests of privacy and to comply with Policy H9 of the Saved Adopted Torbay Local Plan 1995-2011.

05. The development hereby approved shall not be commenced until details of 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 ensure a satisfactory form of development and to comply with Policy BE1 of the Saved Adopted Torbay Local Plan 1995-2011.

06. The development shall not be used/occupied until the vehicle parking areas shown on approved detailed plans have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with Policy T25 of the Saved Adopted Torbay Local Plan 1995-2011.

07. The development hereby approved shall not be occupied until all the obscure glazed screens indicated on drawing no. 3303-07 hereby approved have been provided in accordance with the details hereby approved. Once provided, these screens shall be permanently retained as approved.

Reason: In the interests of maintaining privacy and to comply with Policy H9 of the Saved Adopted Torbay Local Plan 1995-2011.

08. The development hereby approved shall not commence until sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;
- (ii) reveals to window/door openings;
- (iii) glazing bars.
- (iv) slating/tiling;

The building shall not be occupied until it has been completed in accordance with these details.

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard and to comply with Policies BES and BE1 of the Saved Adopted Torbay Local Plan 1995-2011.