

Application Number

P/2013/0194

Site AddressEastern Esplanade
Paignton Seafront
Paignton
Devon**Case Officer**

Mr Scott Jones

Ward

Roundham With Hyde

Description

Change of use from public highway to public car park; use as events area for up to 60 days per annum

Executive Summary/Key Outcomes

The application site relates to the Eastern Esplanade, a linear stretch of highway approximately 700 metres long by 15 metres wide that is located between Paignton Green and the promenade and Paignton Sands beach. The site includes the adjacent landward footpath but excludes the seaward promenade.

The application seeks to formally change the use of the land from designated highway (Sui Generis) to public car park (Sui Generis) with use for events for up to 60 days per annum. There are no physical or operational changes proposed as part of this application (other than formalising the potential use for events for up to 60 days per annum).

This is a Council application made by the Authority's e Highway Department. The reason for the application is not to alter the management or operation of the land, but to reduce the level of official procedures required to undertake the current operations. The proposal includes up to 60 days of events as it is envisaged that the move would trigger greater flexibility for the development and staging of events on the land. The current highway designation restricts both the number and type of planned closures per year for permitted activities.

In the absence of any physical or operational change, other than to formalise the potential for the use of events for up to 60 days per annum, the impact of the change of use of this stretch of highway with parking is considered to be positively beneficial. The change will enable better management of the space in terms of its positive contribution to the local economy, through event uses and uses to support the adjacent green and beach.

Recommendation

Conditional Approval; Conditions relating to hours of operation for events and implementation of the proposed measures cited within the accompanying Flood Risk Assessment.

Statutory Determination Period

13 weeks / Determination date 25th May 2013.

Site Details

The application site relates to the Eastern Esplanade, a linear stretch of highway approximately 700 metres long by 15 metres wide located between Paignton Green and the promenade and Paignton Sands beach. The highway has a linear footpath along its landward side and the vehicular area is demarcated with a designated cycle route and formalised parking spaces along the majority of the seaward flank. Vehicular access is gained from the East through Paignton Green opposite the pier, which splits to one way system to the North and South and to exit points. In regard to land designations a large proportion of the site sits within an Urban Landscape Protection Area (ULPA) (North of the cinema) and is within the Coastal Protection Zone (CPZ). Further to these designations the site is within a high risk flood zone (Category 3A) and the cycle route through the site is locally designated.

Detailed Proposals

The application seeks a change of use of the land from public highway (Sui Generis) to public car park and use of the area for events up to 60 days per annum (Sui Generis). No physical or operational changes to the land are proposed.

Summary Of Consultation Responses

Environment Agency: No objections to the proposal providing the development proceeds in accordance with the submitted Flood Risk Assessment (FRA).

Highways Officer: No objection, provided that the cycle route along this stretch of highway is always maintained.

Environmental Health and Protection: Confirmed that they wish to offer no comment.

Summary Of Representations

27 letters of representation received, 23 being duplicate standard letters. The key issues covered include the following;

- The change from public highway will remove the public's right of free access and owners could then close the road and charge for access
- Health and safety concerns as the road is particularly well used in the summer months, especially with use of the beach and geopark play area
- Public consultation should have been carried out prior to the application and the matter should be withdrawn and addressed
- No information on what types of events and when they would be held
- The change of use would have a visual impact upon the area
- Concern on whether the proposed use will make it harder to clear the area of cars for events in the evening
- Support the notion of any proposed change to make it easier to open and close the parking area and the reduction in paperwork and associated costs for event organisers.

Relevant Planning History

- P/2002/0065/R3 Use of public open space for exhibition and event use (max 28 days), charitable events (max 56 days) funfair with fairground operators caravans (max 42 days) and gallopers funfair ride with 2 other traditional rides between Friday spring bank holiday to Monday August holiday each year. Approved 15.03.2002, with Conditions relating to hours of operation and a yearly schedule of proposed uses.
- P/2009/0366 Siting of fairground roller coaster use in July and August only
- Approved 05.06.2009, with Conditions relating to hours of operation and operation within July and August only.

Key Issues/Material Considerations

The key matters to consider are access and movement issues, visual implications, economic considerations, local amenity issues, flood risk matters and the likely impact upon the Coastal Protection Zone.

Highways/Access/Movement:

The change of use from highway to public car park and occasional events raises a number of points in respect to access and movement.

Firstly de-regularising the highway would extinguish the right of public passage

on and through the land, which is a core concern raised in public representations. The proposal seeks to maintain the physical form of the land, the use and its open nature. It is envisaged that the public's day-to-day use and experience of the space would not alter as a result of the application.

Public concern has been raised in regard to the conflict of the proposed use with pedestrians, certainly during the summer months. In regard to public/pedestrian safety the operation and management of the land is stated to remain unchanged and, with the current use of the land being a highway, albeit closed at certain times of the year at the discretion of the highway authority, the proposed use is considered no more impacting than the current use.

A cycle path runs through the length of the site and public concern has been raised over the impact of the proposals upon this. The cycle path is a locally designated cycleway and the status of the cycle path will remain unchanged by the application and will continue to form part of the wider cycle network and coastal route. Strategically there appears no direct impact upon the cycle route whether it runs on a highway or through a car park.

The beach side promenade between the sea wall and the beach will not be affected and does not form part of the application site.

Visual Implications / Impact Upon the Urban Landscape Protection Area:

The site is sensitive to development due to its size, openness and strategically prominent location sandwiched between Paignton Green and the promenade and Paignton Sands beach. In regard to Policy guidance Policy L5 *Urban Landscape Protection Areas* is the clearest guide for how development should be considered. The policy principally states that development will not be permitted were it would seriously harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment.

There are two aspects to the proposal to consider. It firstly seeks to alter the designation of the land from highway to public car park without physical or operational change. Secondary to this it also seeks to use the land for events for up to 60 days per annum.

In regard to the first aspect, the change from highway to public car park, the absence of any physical or operational change would appear to offer a neutral visual impact. The implications of the secondary aspect of the proposals, that of introducing the use for events for up to 60 days per annum, is far less calculable due to the inherent unknowns as to what events would be held and what, if any, temporary structures would be forthcoming with them. The inherent temporary nature is likely to limit the impact of any temporary structures upon the value of the area and the open element it currently provides. Whilst the impact is unlikely to be discernibly different to the impact of events held on Paignton Green, Members may wish to consider whether the general scale and form of physical

elements should be submitted to the LPA for prior consideration, possibly on an annual basis.

Members may also wish to consider that the change of use from highway to public car park would essentially alter the scope for permitted structures to be erected. At present under Part 13 of the General Permitted Development Order the Highway Authority is permitted to carry out works incidental to the maintenance or improvement of the highway. Under Part 12, which would be enacted once the land is no longer highway, the Local Authority would be able to erect small ancillary buildings up to 4 metres high or 200 cubic metres in volume. Members may wish to consider whether the LPA may wish to control the potential for such structures via the part removal of Permitted Development.

Economic Issues:

The accompanying planning statement states that key driver for the proposed change is to enable the space to be managed more flexibly and more efficiently by the Authority, without the need for physical or operational change. The accompanying planning statement cites that under current traffic regulations the process to achieve temporary closures and the general scope to offer events on the land is prohibiting a more diverse use that could be supporting of economic and tourism aspirations of the Authority. The endeavour to support the staging of local events is considered acceptable in this area and supportive of similar events usage on the Paignton Green. It also considered commensurate with wider authority goals to support the economy.

The right of access to existing businesses is stated as being unchanged.

Local Amenity Matters:

As previously stated the principal use of the land will remain unchanged, as it will continue to operate as a linear 'road' with parking along its coastal flank. There will be no impact upon local amenity from noise or disturbance through the basic maintenance of the established use.

In regard to the formalised introduction of events use for up to 60 days per annum it would appear that the site is largely isolated from residential areas and has closer ties to adjoining business uses in and around its borders. Notwithstanding its physical isolation the site is extremely open and prominent and the implications of formally introducing public events should be carefully considered.

The scale of events, i.e the number of days permitted per annum, appears commensurate with that previously considered acceptable on the adjacent Green. It is noted that the adjacent Green approval operates with an hours of opening restriction for events, which protects against undue impact upon the

amenities of the local area through noise and wider disturbance. Due to the proximity of the site with the Green and the similarity of the proposals it is considered fitting to attach a similar time restriction on events, i.e. not to be held between the hours of 11.30 pm and 10.00 am.

Flood Risk

The site lies within Flood Risk Zone 3(A), where the flood risk is from coastal flooding caused by overtopping of the nearby sea wall. The application is supported by a Flood Risk Assessment (FRA) that identifies that the proposal will have no or very little effect on any flooding issues and would not alter the flow of any flood water. It does however clarify that the effects of severe weather and flooding upon the operation of the car park and sporadic events does need to be considered.

In mitigation it proposes that the Authority, as operator, should register with the Environment Agency Flood Warning Team in order to receive early warnings. Following the receipt of severe weather warnings operators should discuss flood risk issues with the Council's Emergency Planning Team.

The FRA concludes that there are no reasons on flood risk grounds why the proposal should not proceed. The Environment Agency has confirmed that they have no objection to the proposal providing development proceeds in accordance with the submitted FRA.

Impact Upon the Coastal Protection Zone:

Policy EP12 *Coastal Protection Zones* of the Saved Adopted Torbay Local Plan outlines that development or change of use shall only be permitted when in accordance with six criteria. These relate to the natural and historic environment, the local economy, creating need for further coastal protection, flood risk, regeneration and compatibility with landscape protection (Local Plan pages 181-182).

With no physical or operational change proposed to the general layout or car parking facility the continuation of the current operation is not considered to conflict with the Policy aims of EP12. The proposed use of the area for events for up to 60 days per annum does introduce a new facet of use, however this is considered appropriate for this coastal location, certainly when appreciative of the location of the site immediately adjacent to Paignton Green, which has similarly established events use. The proposal is therefore considered in accordance with the policy ambitions for Coastal Protection Zones.

S106/CIL - Not Applicable

Conclusions

The proposal would not significantly affect the character of the area as no operational or physical change is proposed. The introduction of up to 60 days for events use is considered complementary for the area for residents and visitors alike and would help strengthen and develop the local economy.

The temporary nature of structures associated with likely events would result in the limited potential for the cause of any long term harm to the amenity of the area.

Should members be minded to approve the proposal the following conditions are advocated;

01. Events shall not be operated between the hours of 11.30 pm and 10.00 am daily

02. Flood risk mitigation measures outlined within the Submitted FRA shall be adhered to at all times following the commencement of the proposed use

Members may also wish to consider whether it would be pertinent to attach further conditions in respect to;

01. Annual submission of details of events including layout and form of expected temporary structures;

02. Removal of Local Authority Permitted Development for small ancillary buildings (which permits buildings not exceeding 4 metres in height or 200 cubic metres)

Relevant Policies

- RS Recreation and leisure strategy
- R2 Outdoor recreation developments
- R11 Footpaths
- TS Land use transportation strategy
- T2 Transport hierarchy
- T3 Cycling
- T26 Access from development on to the highways
- T27 Servicing
- EPS Environmental protection strategy
- EP12 Coastal Protection Zone