

**P/2011/0018/MPA**

**Berry Head With Furzeham Ward**

**Torbay Holiday Chalets, Fishcombe Road, Brixham**

**Formation of 40 self-catering units with associated leisure facilities**

### **Site Details**

The plot contains a long established holiday complex that sits in a relatively small and secluded site off Fishcombe Road, Brixham, sandwiched between the wooded areas of Battery Gardens and The Grove. The existing complex contains 30 holiday chalets arranged within curved terraces along with some ancillary buildings that generally have a northerly coastal outlook over Fishcombe Cove. The existing development appears in poor repair, which is largely due to its age and the abandonment of the operation over the past few years. However more fundamentally it intrinsically displays a quite disjointed and somewhat poor level of architectural form, with an ad-hoc mix of pitched and flat roofed buildings. In regard to contextual matters the buildings overlook an extensive area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the cove. In regard to access the sites vehicular entrance sits in the southeastern corner off Fishcombe Road, the local road that serves the small number of sites in the locality that includes the beach access lane, the Brixham Holiday Park and the public footpath leading towards The Grove woodland.

In regard to planning designation the site sits in the South Hams Area of Outstanding Natural Beauty (AONB) and is within the 5km buffer zone of the Berry Head SAC (Special Area of Conservation). In addition approximately half of the site (on the coastal side) sits under the local designations of Countryside Zone (CZ) and County Wildlife Site (CWS). It is also pertinent to acknowledge that the site sits adjacent to the Battery Gardens SAM (Scheduled Ancient Monument) and the Candidate Marine SAC.

### **Relevant Planning History**

- P/2006/0838 Six New Holiday Flats, New Clubhouse with managers flat above and guest facilities (In Outline) (Renewal Of Application P/2003/1221/OA) – Approved (previously considered and approved under 1993/0169, 1997/0975, 2000/0889 and 2003/1221).
- P/2000/1759 Erection of 18 residential and 18 holiday flats with car parking (in outline)(as revised by plan received 20 June 2001) - Refused
- P/1989/2744 Erection of clubhouse with owners accommodation over - Approved
- P/1988/2591 Erection of new chalet to replace existing chalet – Approved
- P/1985/1149 4 Holiday chalets
- P/1984/2468 8 Holiday chalets
- P/1984/2091 Clubhouse/owners accommodation – Approved
- 10.5.79.3578 Erection of clubhouse and 4 chalets – Approved
- 10.5.79.2501 Clubhouse and 6 chalet units - Refused

### **Relevant Policies**

*Saved Torbay Local Plan 1995–2011:*

- LS Landscape Strategy
- L1 Areas of Outstanding Natural beauty
- L4 Countryside Zone
- L10 Major development and landscaping
- NCS Nature conservation strategy
- NC1 Protected sites – internationally important sites
- NC3 Protected sites – locally important sites
- NC5 Protected species
- EPS Environmental protection strategy
- EP6 Derelict or under-used land
- BES Built environment strategy

BE1	Design of new development
BE2	Landscaping and design
TUS	Tourism strategy
TU3	New Tourist facilities elsewhere
TU5	New holiday accommodation
TU7	Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
TU9	Refurbishment and development of new holiday centres or parks
TU10	Change of use or redevelopment of holiday centres and parks
TS	Land use transportation strategy
T25	Car parking in new development; and
T26	Access from development on to the highway
R11	Footpaths
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
CF7	Education contributions
W7	Development and waste facilities

### **Proposals**

The proposal is a redevelopment scheme to clear the site of the current buildings in order to supply 40 self-catering units with associated leisure facilities. These facilities are to include a spa, restaurant, indoor and outdoor pools, and a 'natural' play area. The proposed units are a mix of one and two storey buildings that incorporate outdoor terraces and light 'glass-box' detailing within the upper floors (which respond to the orientation and coastal aspect).

The units are laid out in curved terraces with 'green' roofs, which layer down the site following the natural topography. The associated leisure facilities are set towards the east of the site close to the proposed entrance. The proposed access has been twice revised in order to respond to local concern over highway safety and the possible impact on pedestrian movement to and from the beach access lane. The access now sits in the same position as the current site access on the southeastern corner of the site.

On-site parking is split between a small number of greeting spaces and groupings of spaces dotted amongst the upper areas of the development, which in total provides for 1:1 parking. In regard to landscaping the proposal shows the retention of a green fringe towards the coast, albeit reduced due to the extent of built footprint proposed. This is supplemented by green roofing and landscaping works within the built area, which is stated as providing an overall net gain of greenspace across the site over the existing arrangement.

The application includes aspirations to provide off-site enhancements by improving the access to The Grove woodland via America Lane, along with the desire to provide a new coastal footpath route that is set to the seaward side of the development. This will provide the option for walkers to remain immediately adjacent to the cliffs and afford a more direct link to Fishcombe Cove Beach.

For clarity the proposal returns to committee seeking approval for 40 self-catering units with an acceptance that the units would be restricted to holiday use only. Notwithstanding this it is acknowledged that the applicant is currently investigating the lawful use of the units on the site and will be submitting a Certificate of Lawfulness, under the supposition that it may be possible to contend that the existing units are, in planning terms, unrestricted dwellings without any defined holiday use. The applicant has expressed that they wish to separate the issues in order to fit with time constraints over an option on the land that expires at the end of June 2011. As such the application is to be considered at the present time as including restrictions on occupancy.

Without prejudice the committee should be aware that these investigations may well provide a circumstance in the near future where it is proven and certified that the pre-existing use of the units is as unrestricted residential use. However, if this falls to be the case any discussion on the merits of an alternative scheme for part or whole unrestricted residential use would fall to be determined on its

individual merits.

### **Consultations**

*Environment Agency:* No objection to the proposal subject to best practice being used for the disposal of surface water run-off.

*Natural England:* Considers that the proposal has the potential to adversely impact the natural beauty of the AONB and therefore request that due consideration is given to the comments submitted by the AONB Unit/Partnership.

It is also noted that the proposals put forward by EAD Ltd and Section 4 of the Ecological Impact Assessment (JAN 2011) should be conditioned as part of any potential permission by the Authority, in order to maintain the favourable conservation status of the South Hams SAC.

*The Authority's Conservation & Design Team:* No objections, the scheme has responded positively to the Design Review Panel comments.

*The Authority's Arboriculture Team:* No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore there are no objections to the application on arboricultural merit.

*The Authority's Highways Department:* Highways would raise no objection to the proposals shown in Drawing Number 3173-d-40, although it should be noted that the access to the site isn't directly onto the public highway and therefore permission to use the Beach access lane should be sought.

Strategically a Transport Statement has been submitted to the satisfaction of the Authority's Senior Transport Planner and the application also includes an outline staff and visitor Travel Plan. The sustainable transportation team have requested that a s106 contribution inline with current guidance is sought to improve walking and cycling in the area.

*South Hams AONB Unit:* The principle of redeveloping the site from its present derelict state is supported, as is the retention of a leisure / tourism use, and the Unit Manager welcomes the improved visual impact of the development. However, the level of development and the movement towards the coast runs contrary to basic principles. The concluding comment outlines that the scheme is not supported by the AONB office. It is noted that should the Local Planning Authority be minded to approve the application conditions should be secured in respect to details of external works, securing genuine holiday use and the access is suitably explored.

Updated comments clarified that the AONB office consider that they must object to the proposals due to the proposed development that encroaches closer to the coast than currently exist. However, the office accepts that there are landscape benefits to the scheme (such as the improved experience landward around the Grove and America Lane and the creation of a seaward coastal footpath route that provides improved linkage to Fishcombe Cove) and hence there is a balance that needs to be struck in regards to the positives and negatives of the proposed development.

*English Heritage:* English Heritage do not wish to comment on the scheme.

*The Authority's Drainage Department:* The proposal decreases the amount of impermeable surface within the site and drains surface water to the surrounding fields, which currently happens. There is no objection to the development.

*Brixham Town Council:* Support the scheme.

### **Representations**

A number of representations both in support and opposition to the scheme have been received. These have been re-produced and placed in the Members Room.

Broadly the letters in support raise the positive benefits of investment and regeneration, along with the removal of an existing eyesore and improvements to the coastal footpath route.

Objections appear to largely cite concerns in regards to the proposed access point part of the way down the beach access lane and the harm that could result from this upon pedestrians using the beach and the Brixham Battery Museum. Also raised is the more limited concern in regard to the positioning of the refuse/storage area near the museum and the impact of this in terms of odour and noise.

It should be noted that revised drawings have been submitted that show the access at its present location on the corner, which is a direct response to the number of highway concerns raised within public representation. It is hence important to note that none of the numerous highway related objections were a response to the present access scheme put forward.

### **Key Issues/Material Considerations**

With the current withdrawal of the initial aspiration from the applicant for open residential use the key issues are the principle of the holiday redevelopment, along with the implications on the local landscape and ecology, the impact upon the highway network, and the possible implications upon the amenity afforded to neighbouring sites/occupiers.

### ***The Principal of Development***

Following the retraction of the desire for an unrestricted residential approval the scheme is a redevelopment proposal that provides a modern holiday development that would replace a defunct and derelict collection of chalets and service buildings. As the scheme looks to maintain a holiday provision within this established coastal site the general principle of the development is considered acceptable.

### ***Visual Implications***

The removal of the unsightly semi-derelict buildings that currently scar the site and the wider AONB is supported, and this view is shared with the South Hams AONB Team. In respect to the replacement scheme itself the proposal provides a radial pattern of development, which harks back to the historical development pattern on the site from the 1950s timber holiday chalets (as referred to and visually illustrated in the submitted Design and Access Statement). The terraced form seeks to utilise the natural drop in topography, minimising the apparent scale of the development when viewed from outside of the site (both from the sea and the land). The general pattern of the development is considered acceptable.

The architectural form seeks to provide clearly modern development which includes intelligent use of the internal/external space to make best use of the views and limited sun-path. The rhythm of buildings refers to the historical chalet use and the street enclosure and the provision of viewing steps down through the site takes its reference from the historic core of Brixham. The layout seeks to integrate parking within the development but restricted to the upper half, through a pedestrian-friendly Home Zone. All these components fuse to provide an interesting and positive scheme for the site which is considered to respond to the constraints and opportunities. It is considered therefore that the buildings will sit comfortably within the plot and surrounds, providing an enhancement over the existing buildings.

For contextual purposes it should be noted that the proposal has been through the Torbay Design Review Panel and the current submission has positively responded to the comments that were outlined by the panel. A copy of the panel's comments to the previous scheme has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

It is appreciated that the comments of the South Hams AONB Unit are mixed as they outline both the perceived benefit and potential harm of the proposal. On the one hand it is welcomed that the current buildings are to be removed, as they are considered harmful to the AONB. It is also recognised that

the provision of a modern functioning site would be beneficial for the general area, and that the boundary improvement works and off site works to America Lane, along with the revised coastal footpath route, would improve the experience of the AONB.

However on the other hand it is also iterated that development encroaching towards the coast, in terms of the extended footprint, is clearly not a philosophy that can be supported in principle. Officers consider it important to have regard to the comments of the South Hams AONB Unit Manager, however, it this is one of a multitude of issues to consider. On balance, given the positive enhancement set out in the overall design philosophy and given the investment opportunity and the intended leisure and tourist uses, it is considered that the wider benefits of the scheme outweigh concerns related to the extension of the built footprint in this instance. This is provided that an appropriate agreement can be reached in relation to the control of the use of the site for holiday and leisure purposes. It is important to note that the holiday nature of the development directly impacts upon its acceptability in planning terms and that an unrestricted residential permission would fall to be determined on its own individual merits.

The likely impact upon the adjacent Battery Gardens Scheduled Ancient Monument is negligible, due to the scale and form of development and the distance between the two sites. English Heritage has confirmed they do not wish to provide detailed comment on the proposal.

The key issues for members to consider in relation to design and visual impact are therefore:

1. The extent of built footprint on the site, which goes beyond the existing built footprint towards the coast,
2. the visual impact of the development from public vantage points, including Battery Gardens, the coast and coastal path and the land behind at Brixham Holiday Park and comparison between the impact of the existing built form, and;
3. the design approach in relation to the site itself and how this provides for the intended holiday / leisure use and responds to the unique setting.

### ***Ecological Implications***

As the site is largely covered by existing development, through buildings and hardstandings, there is limited habitat of any value. However, a phase 1 Habitat Survey has recorded evidence of slow worms and the Lesser Horseshoe Bat.

Natural England has not identified specific concern in regard to any particular issue, however, they have indicated that the mitigating measures identified within the submitted Ecological Impact Assessment should be conditioned as part of any planning approval. Deferring to this advice the proposal is considered acceptable in respect of the ecological implications and provided that these measures are controlled by condition it is considered that the development will not have a likely significant impact on the South Hams SAC so as to warrant a Habitats Regulations Assessment.

### ***Highway Issues***

The proposal provides a 1:1 parking ratio with the access amended to the corner adjacent to Beach lane. The Authority's Highways Department considers the proposals acceptable on highways grounds as the established use largely mitigates the implications of the redevelopment scheme of 40 units. There is therefore no stated objection on highways grounds, and officers consider that the revised site access has appropriately responded to the concerns raised by local neighbouring occupiers and interest groups.

### ***Amenity Issues***

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding sites and buildings, provides a scheme that is likely to have little impact upon the amenity afforded to neighbouring occupiers and businesses. The proposal is therefore considered acceptable on amenity grounds.

## ***Planning Contributions and other legal clauses***

### *Planning contributions*

With the proposal returning to committee as a scheme for holiday units (rather than the unrestricted residential scheme previously mooted) the level of planning contributions are outlined below. Please note that the sums are mitigated to take into account the existing use and number of units, along with the extant approval for six further units.

Sustainable Transport Contributions: £3440 (expected towards improvements to America Lane and the Grove), which is based on a net of four additional units (55-74m<sup>2</sup> floor area).

It is also considered appropriate to consider that a monitoring contribution should be sought, inline with adopted guidance, which amounts to £2600. This would be payable in order to monitor the holiday use of the site in accordance with the proposed conditions and s106 obligations.

### *Legal clauses*

In addition to planning contributions it is considered appropriate to include clauses within any forthcoming legal agreement in order to provide suitable parameters to ensure the holiday site is managed and maintained for holiday use. Draft clauses covering the following are considered reasonable within the context;

1. Holiday use directly outlined within the legal agreement,
2. Restricted leasehold arrangements for the holiday units,
3. Register of owners and their main UK addresses,
4. The maintenance of a visitors log for inspection,
5. Service charge arrangements for the repair / maintenance of the site via an overarching management company.

As the creation of a coastal path through the site is considered one of the integral benefits that should come forward, agreement on the provision and management of the path should also be engrained in the S106.

### **Sustainability -**

The scheme will bring back to life a brownfield semi-derelict tourism site that sits within a sustainable location near to supporting holiday facilities and transport infrastructure. This is a sustainable location for the espoused leisure and tourism use, however it is considered pertinent to restrict the potential for the site to become permanent residential occupancy, which would not be a sustainable form of development without the provision of appropriate affordable housing and community infrastructure under s106 of the planning act.

### *Economic regeneration outcomes*

The proposal will clearly provide for the regeneration of a derelict and now defunct holiday site, providing modern holiday accommodation fit for the 21st Century that strengthens the wider tourism package offered by Brixham. By bringing the camp back to life the scheme will provide additional jobs for the area and with the high level of supportive leisure facilities, the scheme will only increase the total number of jobs supplied by the operation.

### **Crime and Disorder -**

It is likely that an operational and managed site would increase activity and natural surveillance in and around the area and therefore reduce the likelihood of trespass or antisocial or unlawful behaviour which is more likely to take place on a semi-derelict site.

### **Disability Issues -**

The land is steeply sloping and it is not clear how the applicant intends to provide the necessary level platforms in order to meet with Part M of the Building Regulations. However, it is considered appropriate in any event to resolve this at the detailed design stage.

## **Conclusions**

The scheme provides an innovative redevelopment proposal of a brownfield site that is currently detrimental to the visual qualities of the area and does not contribute to the wider holiday package offered by Brixham. There is concern in relation to the footprint of the proposed scheme, which extends beyond the existing built footprint, however the overall design approach is considered to be a significant enhancement over the existing built form. In addition there are wider net benefits from the new scheme in addition to the improvement to the appearance of the site, these include the provision of leisure facilities, units designed for holiday occupancy and new employment opportunities.

The packaging of the scheme for restricted holiday occupancy overcomes previous concerns over the potential loss of a holiday park in the area. As the proposal is now to include restricted holiday occupancy this issue has effectively been overcome. Officers now consider that, on balance, given the positive benefits of the scheme in design terms, the regeneration benefits, the net uplift in the quality of the local holiday provision, the scheme is acceptable in planning terms. It is considered that the one remaining negative aspect, the extension of the built footprint within the AONB, is negated by these wider benefits and the general enhancements to the scheme in terms of its appearance within the AONB. The proposal is therefore considered acceptable.

It is noted that the investigations in respect to the lawful use of the existing development, i.e. whether the site could or could-not be classed as 30 residential units rather than holiday units, is a separate matter that should not directly influence the determination of this current application. If a residential use is subsequently established for the existing site and put forward as mitigation for future proposals (or amendments to the proposed holiday restrictions), this would be a matter to be considered on its own merits.

**Recommendation:**

Committee site visit; Conditional approval; subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning, including clauses to ensure the appropriate holiday occupancy of the site, the s106 to be signed within 3 months of the date of this committee meeting. Conditions to include the schedule attached and any other conditions deemed necessary by the Executive Head of Spatial Planning.

**Condition(s):**

01. The holiday units hereby approved shall at all times be used for holiday purposes only and not for permanent residential occupation or occupied as a person's sole or main residence.

Reason: In order to ensure the continuance of the holiday provision and to guard against the introduction of potentially conflicting permanent occupancy use, within what is a restricted high-density site, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. A register of visitors and their main residential addresses shall be maintained at all times by the site manager, or other party as previously agreed by the Local Authority, the register shall be maintained and made available for inspection by the Local Planning Authority at all reasonable times.  
Reason: To ensure that the holiday units are used for holiday purposes, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

03. The leisure facilities, including the spa, indoor and outdoor pool, restaurant and 'natural play' area indicated on the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the first unit.

Reason: To ensure an appropriate mix of uses on the site and form of development, in accordance with Policies BES, BE1, LS, L1, TUS, TU3, H9 and W7 of the Saved Torbay Local Plan 1995-2011.

04. Prior to the commencement of the development hereby approved samples of all external materials shall be submitted to or made available on site for the Local Planning Authority and agreed in writing. The development shall be completed in the approved materials.

Reason: In the interests of the visual amenities of the locality, in accordance with Policies H2, H9, BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan 1995-2011.

05. The development shall not be used/occupied until the vehicle parking areas and access thereto shown on the approved detailed plans have been provided and made available for use. These areas shall be kept permanently available at all times thereafter for parking and access purposes to serve the development.

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 Torbay Local Plan, 1995 - 2011 (as adopted in April 2004), in the interests of highway safety, and in order to protect the amenities of the neighbourhood.

06. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, planting plans, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate, along with an implementation programme. The works shall be carried out within the first available planting season following the first occupation of the development. If within a period of 2 years from the completion of the development any tree or shrub planted as part of the approved landscaping scheme is cut down, felled, uprooted, removed, destroyed or dies or becomes seriously defective, it shall be replaced by another of a similar size and species in the next planting season following its removal/death or defection, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the landscape character of the area and the impact on the Conservation Area, in accordance with Policies LS, L9 and BES of the Saved Adopted Torbay Local Plan 1995-2011.

07. All mitigation and enhancement proposals put forward within the submitted Ecological Impact Assessment (EAD, Jan 2011) shall be implemented as detailed, in full, unless otherwise submitted to and approved by the Local Planning Authority.

Reason: To suitably manage and protect identified species and habitats, in accordance with Policies NCS, NC1 and NC3 of the Saved Torbay Local Plan 1995-2011.

08. Prior to the first occupation of any unit the public right of way through the site, as indicated on the approved plans, shall be completed and made available for use, inline with details of levels and material finish that shall have previously been submitted to and approved by the Local Planning Authority.

Reason: To ensure a suitable development arrangement, inline with the aims and objectives of Policies L1 and R11 of the Saved Torbay Local Plan 1995-2011.