

Application Number

P/2014/0965

Site Address

Former Royal Garage Site
4-24 Torwood Street
Torquay
Devon
TQ1 1EB

Case Officer

Mrs Helen Addison

Ward

Wellswood

Description

Mixed use development of hotel, 1 No A1 unit, 3 No A3 units, 3 No B1 office use units and 1 No B1 office use or D1 gym use unit at former Royal Garage site, involving the demolition of property Nos 4-24 Torwood Street, Torquay

Executive Summary/Key Outcomes

This application is a revision of a previous scheme for redevelopment of this town centre site that was granted planning permission under application reference P/2011/0035.

The application is submitted for demolition of all buildings on the site and construction of an eight storey building to be used as;

- 1 x A1 retail unit
- 3 x A3 restaurant units
- 4 x B1 office or alternatively 3 x B1 office and 1 x D1 gym unit
- 131 bedroom hotel

The proposed development has been revised in order to improve its viability. The layout of the building has been simplified so that uses are not split between floors. The height of the frontage to Torwood Street has been increased by 2.3 metres and the previously approved set back to The Terrace at the 7th and 8th floors has been omitted. The provision of a new footpath linking Torwood Street to the Terrace has been deleted to increase the size of the building and remove the need to create a facade to the side of the building. The design of the Torwood Street elevation has been revised.

The Design Review Panel has supported the principle of the revised scheme. English Heritage objected to the originally submitted plans on the basis that the development failed to respond to the streetscape in Torwood Street, and consequently would result in harm to the Torquay Harbour Conservation Area.

Revised drawings were submitted which included deletion of 4 hotel bedrooms to address English Heritage requirements. In response to these revisions English Heritage has advised that the revised scheme does not sufficiently address the prominence of the third floor, which has a looming quality over the streetscape. It is suggested that the scheme would further benefit from setting the central section of the development (mainly the third floor) back into the site, providing it with a recessive quality and a greater sense of the terraced character of the conservation area. Similarly it is also noted that on the Torwood Street elevation the upper storeys of the building no longer have a recessive quality and therefore EH again have concerns about the potential looming quality to the building. It is suggested that further modification to the design could be undertaken to help reduce the overall impact.

The scale of the proposed development would result in some harm to the character and appearance of the Torquay Harbour Conservation Area. The NPPF advises that strong countervailing factors should be identified before harm to a heritage asset can be overridden. Any harm or loss to a heritage asset should require clear and convincing justification.

The proposed development would deliver significant investment in Torbay. It would provide a minimum of 2450m² of new office floor space and a 131 bedroom hotel, both of which would create new employment opportunities. This scale of investment would present a significant economic regeneration opportunity within the town centre. The principle of redevelopment of the site would be consistent with the saved adopted Torbay Local Plan 1995-2011. The development has been estimated by the applicant as providing between 300-410 FTEs, £14M construction investment, £40M of total economic activity and a minimum of £2.8M hotel visitor spend.

The applicant has advised that further modifications to the proposed development as recommended by English Heritage would make the scheme unviable. In order to be confident that the proposal would provide a level of public benefit that would over-ride the effect of the development on the Torquay Harbour Conservation Area, for example through providing a significant regeneration opportunity within a prominent location in the town centre and redevelopment of a site that has been considered an eyesore for many years, the applicant has submitted a viability assessment to justify that any further modification would impact the viability of the scheme. The suggested modifications by English Heritage would result in a loss of 10 bedrooms to the hotel. On this basis the viability assessment submitted by the applicant indicates that the development proposal would not be viable.

The impact of the development on the Torquay Harbour Conservation Area has to be weighed against the investment and regeneration opportunity that this proposal presents. There is a fine balance in this consideration, particularly in the light of English Heritage's comments. Having considered the scale of

investment that would be generated by this scheme and the prominent location of the site within the town centre, on the basis that the Design Review Panel supported the principle of the current proposal, providing the TDA's review of the viability assessment supports the applicants case that it would not be viable to modify the scheme, it is considered that the substantial public benefits in this case would be sufficient to override the impact of the proposal on the heritage assets.

Recommendation

Subject to receipt of confirmation from the TDA that the viability assessment submitted by the applicant does demonstrate that acceptance of modifications proposed by English Heritage would render the proposed development unviable; Conditional approval; subject to the signing of a s106 legal agreement in terms acceptable to the Director of Place, within 6 months of the date of this committee or the application be reconsidered in full by the committee, conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

The thirteen week target date for determination of the application was 7th January 2015. The application has been delayed because the design has been revised following an objection to the application from English Heritage and the applicant was requested to submit further information in support of the proposed development.

Update

Members considered the application at their meeting on 12th January 2015, it was deferred in order to report additional information on the relationship of the proposal with the Building Heights Strategy and for the submission of a viability assessment.

The relationship of the proposal with the Building Heights Strategy

Members will be aware that the Building Heights Strategy was commissioned by the TDA. It should be noted that the report carries limited weight as it is an evidence based document supporting the Torbay Local Plan 1995-2011 and does not constitute Council policy.

In the strategy a 'tall building' is defined in the strategy as "any building that is significantly taller than the prevailing height."

Within the document there is a plan which identifies the Town Centre, including Torwood Street as an 'Area of Search' where tall buildings are considered to be appropriate in principle, subject to a set of considerations. It sets out three main objectives for Torquay Town Centre;

- to reinforce the character of fine-grained 3 storey buildings and a varied

- roofscape
- to promote vibrancy and vitality of the town centre through a flexible approach to building height
- to reinforce Torquay's role as the primary centre in Torbay.

The proposed development has sought to integrate into the fine-grained character of the conservation area, particularly along the Torwood Street frontage. Revisions have been made to the submitted scheme to meet this objective. The building elements do exceed three storeys. In the Strategy it is recommended that an additional storey could be acceptable within this location.

In the Strategy it is noted "there will be occasions when a tall building might be justified because of the benefits it brings to the community at large, notwithstanding reservations which might apply in relations to its aesthetic or environmental impact on a particular area or view. Examples might include where a tall building will be a talisman for inward investment and regeneration acting as a catalyst for revitalising and rejuvenating a place".

The acceptability of a tall building within a certain area turns on a number of key considerations such as the impact on views, whether the development breaches the sky line and how it responds to the topography of the area. The view of Torquay harbour is analysed within the strategy. It refers to the backdrop of the view being tree covered slopes loosely developed with medium scale development. It identifies that this view is sensitive to tall buildings which could harm the balance of the view, particularly in the foregrounds, on hill tops or where it would break the sky line. The design of the proposal has come forward as a response to similar analysis of how the site fits within its context. This has resulted in the breaking up of the building into different elements which would reduce the height of the proposal when viewed from key vantage points around the harbour area.

The criteria for assessing a tall building are similar to those which have been used in assessing the proposal. These are its location, conservation, views, topography, design, public realm, streetscape, microclimate, amenity, land use and sustainability.

In summary, the Building Heights Strategy does not constitute Council Policy and therefore has limited weight. The application site is within the area of search, where tall buildings can have acknowledged benefits by way of regeneration and vitality. The strategy permits tall buildings where they meet the criteria set out above.

Viability Assessment

The applicant has submitted a viability assessment that predicts the scheme (as applied for) would result in a loss for the developer. The modifications requested by English Heritage would result in deletion of 10 hotel bedrooms from

the scheme which would result in an unacceptable scale of loss to the developer. The viability assessment will be reviewed by the TDA prior to the meeting.

The applicant has advised that the effect of the loss of 10 bedrooms on the local economy would be as follows;

- Assuming occupancy of 1 person per room and 85% occupancy a loss of £276,122 per annum
- Assuming occupancy of 1 person per room and 65% occupancy a loss of £211,152 per annum
- Assuming occupancy of 2 persons per room and 79% occupancy a loss of £513,263 per annum.

The TDA has been asked to review the viability assessment and confirm whether it is (i) realistic and (ii) demonstrates that the modifications recommended by English Heritage would make the scheme unviable.

Site Details

The site comprises the frontage buildings of 4 – 24 Torwood Street and includes the land to the rear of these buildings, which has until recently been used as a car park. It is bound to the south by Torwood Street and to the north by a concrete faced rock wall of approximately 10m in height beyond which is The Terrace at a notably higher level. To the west of the site is a public right of way which provides pedestrian access between the two roads. The car park originally provided stabling and garaging for the former Royal Hotel which is to the west of the application site. There is an existing vehicular access onto Torwood Street between building numbers 16 and 22. None of the former stables and garages remain on the site. The site area is approximately 0.23ha.

In terms of constraints; the site is within the Torquay Harbour Conservation Area. The Torquay Harbour Area Character Appraisal identifies most of the buildings on the site as key buildings within the conservation area with largely unspoilt frontages. Within the Local Plan the frontage buildings are identified as being within a Secondary Shopping Frontage. Most of the site is allocated for mixed use development in the Torbay Local Plan 1995-2011 and is subject to policies S2 TM4, E1.10 and S5.2 which promote mixed use development. This includes retail, leisure, employment and residential uses. Torwood Street is shown as being part of the major road network.

The buildings on the site have been closed and boarded up for several years. The most recent uses of the buildings were referred to under the previous planning application reference P/2011/0035MPA as follows:

- 4 Torwood Street – “Tictocs’n’rocks” – Retail
- 6 Torwood Street – “Devon Kebab House” – Takeaway
- 8 Torwood Street – “Trents” – Bar

10 Torwood Street – “Legends” – Restaurant
12 – 16 Torwood Street – “Brights of Nettlebed” – Retail
22 Torwood Street – “Wild Jacks” – Takeaway
24 Torwood Street – “The Gold Shop” - Retail

The site is in a prominent location in the town centre, and is located close to the harbour and the clock tower which is a notable land mark. The surrounding area is largely in commercial use with a number of shops, cafes, take aways, night clubs and offices in the area. There are also residential flats within the vicinity of the site, some of the closest being to the west and to the south at the former Queens Hotel. The Terrace car park is to the north of the site. The site is within an area that has a vibrant night time economy due to the proximity to nightclubs and takeaways.

The site is visible in long distance views from the harbour, Torwood Street to the east and west and from Montpellier Road to the north.

Detailed Proposals

This application is principally a revision of a scheme that has been previously been approved by the Council under application references P/2009/0690 and P/2011/0035.

The application is for demolition of all the existing buildings on the site that comprises numbers 4 to 24 Torwood Street, and subsequent redevelopment. The proposed redevelopment would comprise construction of an eight storey building (the 6th to 8th floors would be set back towards The Terrace) that would be used for;

3 x A3 restaurant units
1 x A1 retail unit
3 x office units
1 x office unit with an alternative possible use as a gym
131 bedroom hotel

Access to the proposed building would be from both Torwood Street and The Terrace. No off street car parking provision would be provided in the development.

Since the application was submitted the design has been revised in the light of the DRP comments and the objection from English Heritage. As part of this revision four hotel bedrooms have been deleted from the proposal to reduce the height of the building fronting Torwood Street. The elevation treatment to Torwood Street, The Terrace and the west elevation have all been revised. The revised proposals were re-advertised on 11th December.

A summary of the mix of uses in the previous and proposed application is;

P/2009/0690 P/2011/0035 P/2014/0965

12 flats	14 flats	
80 bedroom hotel	113 bedroom hotel	131 bedroom hotel
1 x retail unit	1 x retail unit	1 x retail unit
3 x restaurant	3 x restaurant	3 x restaurant
6 screen cinema	office	3 x offices
	gym	1 x office/gym

In comparison with the most recent application that was granted planning permission in 2012 (P/2011/0035) the main changes in this proposal are;

- The number of hotel bedrooms has increased
- The residential units and on site parking have been deleted
- The office floor space has been increased from 294m² to 4690m²
- The footpath proposed between Torwood Street and The Terrace has been deleted.

These revisions have resulted in proposed changes to the external appearance of the building, notably an increase in the height of the southern elevation facing Torwood Street by 2.3 metres and a reduction in the set back of the upper floors facing The Terrace. There have also been revisions to the design of the building.

In detail the application would comprise the following development;

Ground floor level Three A3 (restaurants and cafes) units with floor areas of 273m², 336m² and 247m² and one A1 (shops) unit with a floor area of 360m². An entrance to the hotel and offices above would be provided at this level comprising a staircase and lift.

First floor level An office with a floor area of 1024 m² and a second office that that applicant has also requested an alternative consent for this unit as a gym, with a floor area of 403m². A number of plant units, an office lobby and toilets are also proposed. There would be a fire escape to the footpath on the western side of the building.

Second floor level Two offices are proposed with floor areas of 1115m² and 305m². They would be accessed either from the entrance onto Torwood Street or from The Terrace. An office lobby, toilets and hotel plant rooms are also proposed.

Third floor level The main entrance to the hotel and offices would be from The Terrace at this level. This floor of the hotel would provide the public facilities; reception, meeting and working areas, breakfast area, toilets and delivery entrance. There would be a number of bedrooms laid out either side of an internal corridor. Within the centre of the building a courtyard would be

formed with rooflights to the offices below. It is not proposed that the courtyard area would be used by hotel guests.

Fourth floor level The building line to Torwood Street would be recessed at this level. Hotel rooms on either side of an internal corridor around the central courtyard would be provided. A fitness room and hotel plant is also proposed.

Fifth floor level From this floor upwards the accommodation is only provided within the rear section of the building which faces onto the terrace. Hotel bedrooms, circulation space and a linen store are proposed.

Sixth floor level Hotel bedrooms, circulation space and a linen store are proposed.

Seventh floor level Hotel bedrooms, circulation space, a linen store and a plant room are proposed.

Roof level Solar panels, a lift over run and a service riser are proposed.

The proposed development would comprise a three storey elevation facing Torwood Street with a recessed fourth storey, and the fifth to seventh storeys further recessed to the rear of the site. In the design and access statement it is advised that the elevation treatment to Torwood Street would comprise

“a contemporary interpretation of local building types, and it is proposed their cleaner detailing is lifted through the choice of high quality finishes. The elevation reflects the building uses- the larger offices with their tall ceiling heights and need for good levels of daylight – create a scale of façade that reflects the grand Scala building opposite. This grandeur is further enforced by the use of Permian sandstone – a locally distinctive material seen elsewhere on the harbourside”.

The design of the building facing Torwood Street would consist of a larger central element finished in sandstone, with a glazed link to rendered end piece on the east side of the building and a contrasting end piece on the west side finished in ball clay brickwork. The design and access statement advises that “this articulation helps reduce the apparent scale of the proposals- acknowledging the finer grain of development further east along Torwood Street”.

It is intended that the hotel bedrooms which are set back from Torwood Street and would be visible above the commercial building would be treated as roofscape. The third floor would be finished in an aluminium curtain walling system with glazed and infill spandrel panels.

The height of the elevation to Torwood Street would be 2.3 metres higher than the previous building approved under application reference P/2011/0035MPA.

The north elevation fronting Torwood Street would have an acrylic rendered façade with a roof over. There would be vertically proportioned windows with inset sandstone panels. The agent has advised that the intention is to respond to the materiality of the adjacent Terrace and to emphasis vertical proportions. Setbacks are proposed at either end of the third floor to create the impression of an inset roof structure.

In the south elevation facing The Terrace under the previous consent (P/2011/0035) the seventh floor of the building was set back. Under the current proposal it would be on the same building line as the floors below. Although it should be noted that the ends of the building would be inset. It is advised that this is because a setback would result in inefficiencies on the hotel requirements.

There is no car parking proposed on the application site. The site is adjacent to the Terrace car park and the applicant advises that parking will be provided in this car park.

It will be seen from the relevant planning history below that this is the third scheme for redevelopment of the site submitted since 2010. In the Design and Access statement it is advised that the previously approved scheme (P/2011/0035 refers) was not implemented principally due to viability issues arising from changing market conditions. This fresh application involves further use and design requirements that are needed to achieve viability.

In support of the application the following technical reports have been submitted; transportation assessment, travel plan, archaeological assessment, environmental noise survey, feasibility report (structural options), flood risk assessment, geotechnical and environmental report and planning statement, statement of community involvement, design and access statement, settings assessment, visual assessment, and scheme appraisal (viability)

Summary Of Consultation Responses

South West Water No objection subject to the development being undertaken in accordance with the details submitted within the flood risk assessment.

Senior Historic Environment Officer- (a) advises a robust statement of justification is required to address the demolition of all the frontage buildings which are recognised as key buildings in the Torquay Harbour Conservation Area Appraisal, and (b) in respect of the archaeological potential of the site an evaluation of those areas not known to be terraced or cellared ought to be undertaken in advance of determination.

Environment Agency No objection subject to the need for further investigation and assessment of the contamination identified in the submitted Phase 1 Desk Study and Phase 2 Geotechnical and Environmental Investigation

report. Advises that this can be carried out post demolition. Recommends two conditions to address contamination. With regard to flood risk assessment recommends the EA best practice guidance on surface water management.

Highways: No objection provided the following issues relating to proposed loading bays and access arrangements on the highway can be overcome by the applicant:

- The Terrace The proposal for both a loading bay and a lay-by is not acceptable. The lay-by being designated as a loading bay to assume both functions would be acceptable. A traffic regulation order for both sides of the Terrace between Montpellier Road and Torwood Street will be required to ensure against unauthorised parking/loading.
- Pedestrian crossing access must be facilitated on the desire line between the public right of way adjacent to the site and the harbour car park through provision of crossing points built out across Montpellier Road. Tactile paving and dropped curves will be required.
- Tracking must be provided for 70 seat coaches and refuse vehicles around all corners of the one way system to show it is achievable.
- Torwood Street- 4 metered parking spaces must be provided along with any loading bay that should be located at the furthest point up Torwood Street in front of the proposed site. This loading bay should be designated as coach parking between 10.00 and 20.00 and loading at other times, all days.
- No footway narrowing is acceptable.
- The cycle stands should be relocated to the shop side of the road and integrated into an improved street scene.
- A similar street scene to that in Higher Union street is required and in keeping with Victoria Parade , including granite paving on the footway all adjacent to the site and down to the existing zebra crossing.
- Public Right of Way connecting Torwood Street to the Terrace – notes the proposal includes improved lighting. This route must be upgraded with CCTV at either end, new surfacing in keeping with the granite paving referred to above and visual attraction improvement.
- Harbour Car Park- contrary to the Transport Assessment this car park does reach capacity at peak summer periods. VMS signing will need to be upgraded and positioned to ensure all traffic receives quality information sufficiently in advance to ensure they can find appropriate

parking spaces.

- Traffic Regulation Orders – will be required for all loading/coach bays and this will be the subject to the usual form of public and Member consultation. There is no certainty that these can be provided until the due process has been completed, typically 17 weeks. The cost of the TRO and associated works will be in the region of £4,650.

S106 Requests a contribution of £182,166

Travel Plan Implementation by individual occupiers as a requirement of lease terms must be secured by condition.

Police Architectural Liaison Officer It is disappointing that no reference to designing out crime or whether any crime prevention methods have been considered is made in the design and access statement. Advises that one entrance into the hotel is preferred, if this is not possible it is imperative there will be some form of strict access and control system to prevent non residents and those with criminal intent being able to access staff areas, the fitness centre, offices or corridors where guest bedrooms are located. There should be clear signage to the hotel reception from all parts of the hotel. All pedestrian accesses will need to be well defined and overlooked.

Environmental Health Officer Requires the kitchen extraction equipment to be designed in the appropriate manner. Suggests a condition should be imposed to address this issue.

English Heritage We are disappointed that the current application has failed to address the distinct character and appearance of the conservation area, in terms of scale and massing and the treatment of the Torwood street façade. We have identified this will cause significant harm to the conservation area and English Heritage is unable to support the proposal. Raises concerns about (a) the height of the building and considers it will create an overly prominent element within the distinct horizontal emphasis of the town, and (b) the treatment of the Torwood Street facade due to the lack of response to the vertical rhythm of the streetscape.

Drainage Requires details of the surface water drainage system. Recommends the developer includes flood resilience measures within the development to a level of 5.3m. A flood management plan should be produced before occupation of the buildings.

Senior Engineer No comments to make.

Summary Of Representations

A number of objections to the development have been received. The following points have been raised;

- This area retains traditional Victorian buildings. It is a key part of the town and should be preserved not destroyed.
- This type of development is totally unsympathetic and unsuitable in every way.
- It is too big, shows no respect for the local vernacular and will destroy the street scene.
- This does set the precedence for the ongoing loss of key buildings in Torquay.
- The new building looks great but should not be built here among other historic buildings.
- The building looks out of place and so more time should be spent matching it and bedding it in with the surrounding buildings.
- My reservation is towards the overall height of the development
- The plans show an unattractive utilitarian building, incongruous in size and appearance to its surroundings
- I would hope for a more sympathetic development on a smaller scale and designed to work with rather than against the natural landscape of this beautiful bay.
- From the harbour people will see a huge building very high, very long blocking most of the hillside.
- The size and scale of this building is completely inappropriate for the area being too overbearing and far too tall.
- The latest planning submission shows increased height and hotel bedroom windows which look directly into my windows including my bedroom.
- The increased height of the building will cause me loss of light, together with loss of privacy and also a loss of approximately 1/3 of the property value.
- The previous permissions cannot carry any weight in the decision making

process given the applicants admission that the schemes are unviable.

- The applicant should submit a viability study for this site in the context of explaining that it is available and deliverable.
- There are significant changes to the scheme notably (a) an increase in the scale of development on the site through an increase in the height of the buildings fronting Torwood street and (b) through the loss of the passageway running from The Terrace to Torwood Street on the eastern side of the site.
- In reviewing the documents submitted with the application we have noted some significant deficiencies
- Previous approvals do not mean there is an automatic assumption that permission should now be granted for the alternative scheme.
- It is noted that under Policy S2 TM4 it states the site “is allocated primarily for retail purposes”.
- The scheme should be refused as being contrary to the Development Plan.
- The scheme has no car parking, this is a fundamental problem.
- The loss of car parking offered by the site in its present state plus the proposed car parking provision to meet the needs of the development has not been adequately addressed in the Transport Assessment.
- The proposed development will now be physically attached to 26 Torwood street and the scale of the buildings are such that they will dwarf this property.
- No evidence has been submitted for the loss of the eastern pedestrian link which was a fundamental part of the previous application. No proper justification has been given for its loss.
- The planning statement does not properly address the range of planning issues.
- There are concerns with the Transport Statement
- The Design and Access statement fails to properly address the design issues surrounding the scheme.
- The scheme gives little attention to its impact on Torwood Street best

evidenced by the fact that the principal access to the hotel is to the Terrace.

- It is not clear from the application form as a whole what is being applied for.

Letters in support received which raise the following points;

- The buildings currently there are not the most attractive Victorian buildings.
- It will regenerate a run down part of Torquay in the same way that the successful Abbey Sands development has.
- Torquay needs this and other quality developments to happen if we are to compete against other coastal locations
- The new development will provide excellent new facilities for local residents as well as those visiting Torquay.
- It will remove the terrible eyesore of derelict and crumbling buildings
- Investment in Torquay town centre should be encouraged and this would be an excellent start.
- The appearance of that part of Torwood street at present is depressing and embarrassing for a major tourist resort.
- The regenerative effect of a suitable, mixed use development has the potential to give a boost to local businesses particularly in this part of Torquay.
- It will provide new jobs as well as adding to the overall improvement in that area of Torbay.

These representations have been sent electronically to Members for their consideration.

Relevant Planning History

Various applications have been submitted in relation to the existing buildings on site including changes of use, minor alterations including shop-front alterations and signage.

Various applications were submitted in the 1980's as follows:

- P/1983/1792 Retail unit/multi-storey car park. Refused 4/6/1984
- P/1984/3237 84 Sheltered flats and wardens flat. Refused 29/1/1985
- P/1985/0361 49 flats. Refused 2/4/1985. Appeal dismissed 5/9/1985
- P/1986/2379 Erection of 43 sheltered flats plus wardens accommodation, offices and retail/storage space. Approved 25/9/1987

Subsequently an application for a certificate of lawfulness was submitted in 2005 in an attempt to prove that work had commenced on the scheme which was approved in 1987, thereby allowing the work to continue. The certificate of lawfulness application was refused on 6/3/2006 and subsequently dismissed at appeal on 22/08/2007.

- P/2009/0689 Demolition Works. Approved 06/07/2010
- P/2009/0690 Demolition of 4 – 24 Torwood Street. Redevelopment of site comprising 12 residential apartments with residential parking, 80 bedroom hotel and associated facilities, 6 screen cinema. 1 retail unit and 3 restaurants. Approved 6/1/11
- P/2011/0035MPA Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre and B1 use for office suite) and 14 apartments with vehicular and pedestrian access, approved 11/5/12
- P/2011/0036CA Demolition works granted 12/5/11

Key Issues/Material Considerations

The main issues that are relevant to the determination of this application are the principle of the proposed development and planning policy, design, highways and transport, heritage, economy/regeneration and S106.

Principle and Planning Policy -

In the saved adopted Torbay Local Plan 1995-2011 the majority of the site is allocated for employment and retail uses. Numbers 24 and 24a Torwood street are not subject of this allocation.

The relevant policies in the saved adopted Torbay Local Plan 1995-2011 relating to the principle of development on the site are as follows;

Policy E1.10 is applicable to the site which proposes the development of the site

for employment purposes. It is stated in this Policy that “proposals for the use of allocated sites for non employment uses will be determined on the basis of Policy E6 (Retention of employment land and buildings)”. The site is also subject to Policy S5.2 which states that the site is proposed for new retail development. In the explanation to the Policy it is stated “a mixed retail and leisure scheme would contribute to the wider improvement of the harbour area”. Further details are contained in TM4 set out in Policy S2. The explanation to this Policy states the site is “allocated primarily for retail purposes. Any scheme should be well-related to the Secondary shopping frontage in Torwood Street. ...levels would allow significant use of upper floors for retail use, providing access to the Terrace. The harbour side location means that the site would also provide opportunities for the introduction of leisure uses. An element of office use would also be acceptable, particularly on upper level”.

The National Planning Policy Framework (NPPF) sets out the government’s planning policies and how these are expected to be applied. These policies are material to the determination of the application. At the heart of the NPPF is the ‘presumption in favour of sustainable development’ which is described as a golden thread running through decision taking. Three dimensions to sustainable development are identified which are economic, social and environmental. To achieve sustainable these objectives should be sought jointly and simultaneously. These three dimensions provide a useful framework against which to consider this proposal.

The policies in the NPPF that are relevant to the principle of the development on this site are;

Para.18 sets out the Government policy on building a strong, competitive economy. It advises the “Government is committed to securing economic growth in order to create jobs and prosperity”.

At para.19 it is stated; “significant weight should be placed on the need to support economic growth through the planning system”

Para. 21 states; “Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances”

Para. 22 is relevant to the proposal and states; “Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

Para. 23 states; “planning policies should be positive, promote competitive town centre environments”

It continues to advise local planning authorities should “recognise town centres as the heart of their communities and pursue policies to support their viability and vitality”.

The NPPF contains very little guidance relating to tourism with the only reference at para.28 which relates to the promotion of rural tourism which is not applicable in this case. In the glossary there is a list of main town centre uses which includes hotel facilities.

In March 2011, the Government published a tourism strategy for the UK which underlines the importance of tourism to the economy and to post-recession recovery, across the UK. The strategy acknowledges (at para 2.1) the importance of tourism across the UK, stating “tourism is an often underestimated but tremendously important sector of the UK's economy”

The NPPF was published on 27th March 2012 and is more up to date than the Torbay Local Plan 1995-2011. Where there is inconsistency between policies in the NPPF and the Torbay Local Plan 1995-2011 the policies in the NPPF carry greater weight in the decision making process.

The principle of redevelopment of the site would be consistent with Policies E1, S5 and TM4 in the Torbay Local Plan 1995-2011. These policies particularly promote use of the site for retail and employment purposes. Policy TM4 also recognises that the site would be appropriate in part for leisure use. The proposed development would deliver retail and restaurant uses at ground floor level which are appropriate uses within a secondary shopping centre and would contribute to the vitality and viability of the town centre. 2450m² of employment floor space will be provided with a further 400m² that would be used for employment or as a gym. This is consistent with Policy E1 in the Torbay Local Plan and through provision of new employment floorspace would support the creation of new jobs. Finally the provision of a hotel on the site would generate new employment opportunities on the site and would support the tourism industry which is identified in the explanation to Policy TUS in the Torbay Local Plan 1995-2011 as the “cornerstone of the economy of Torbay”.

A representation has been received suggesting that the proposed development does not accord with the Torbay Local Plan, specifically because the proposed uses are not consistent with the explanation to Policy S5.2 in the Torbay Local Plan 1995-2011, which refers to retail uses on the upper floors of the development. It is not accepted that the proposed development can be classed as being contrary to the Torbay Local Plan 1995-2011. The proposal would be consistent with Policies E1.10, S2, S5.2 and TM4 which promote mixed use development of the site. The explanation to Policy 5.2 is not intended to provide

a definite prescription of the uses in the development of the site but rather to provide guidance on what may be appropriate. The site is within the secondary shopping area rather than the primary shopping area therefore the retail importance of the location is lower. In addition guidance in the NPPF makes it clear that Local Authorities should take a flexible approach to development within town centres in order to encourage vitality and viability.

Design and Visual Appearance -

Para. 62 of the NPPF advises that Local Planning Authorities should have local design review arrangements in place, and that in assessing applications they should have regard to the recommendations from the design review panel. Therefore in determining this application weight should be attached to the recommendations of the Design Review Panel (DRP). A copy of their report is included with the representations for this application.

In principle the DRP are supportive of the proposed scheme. They note that there is much to commend in the handling of this difficult site. They advise that they have some concerns about the architectural expression but these are not considered to be major obstacles. The main points raised by the DRP are as follows;

We are pleased to see that the key urban design principles of the development have been maintained and remain sound. We are encouraged by the greater simplicity now achieved.

We do not think the loss of the new public footpath which was to connect Torwood Street to the Terrace presents a major deficit to the network of pedestrian routes in this part of Torquay.

An upgrade of the existing footpath could form part of a Section 106 agreement

Arrangements for the use of public parking spaces need to be confirmed with the Council

Consideration should be given of how the entrance door to the hotel and offices on Torwood Street might be signalled in the architectural expression.

The treatment of the ground floor elevation of the A1 unit should be reconsidered in terms of how it anchors the elevation to the street

At third floor level the western corner of the building should follow the alignment of the hotel element of the development

A lighter brighter approach should be adopted for the facade materials of the hotel.

Alternative strategies for detailing of the Torwood Street elevation would be worth pursuing to restore some of the visual interest of the earlier scheme.

Consideration should be given to utilising the internal court.

Large scale details should be submitted prior to the commencement of development.

English Heritage has raised an objection to the proposal as submitted. It considers that the proposal has failed to address the distinct character and appearance of the conservation area, in terms of scale and massing and the treatment of the Torwood Street facade. Concern is expressed about the increase in height of the building and the treatment of the facade to Torwood Street. Particularly identified is a lack of response to the vertical rhythm of the streetscape that helps to break up the facade and provide interest.

The above comments have necessitated the applicant to review and revise the design of the proposed development. A number of the requirements of the DRP have been addressed in the revised plans, including detailing of the building to Torwood Street and the Terrace. In response to the issue raised by English Heritage the detailing of the elevation to Torwood Street has been revised to provide an increased vertical emphasis, through a reduction in the central sandstone element of the building and introduction of a contrasting end element finished in ball clay brickwork.

In comparison with the previously approved scheme on the site there are a number of common elements in the design of the proposed building. Notably the sandstone central element in the Torwood Street elevation and the rendered elevation to the Terrace with inset glazed panels and sandstone detailing. The 'glazed box' treatment to the eastern end of the Torwood Street elevation has been omitted from the current proposal and replaced by a rendered elevation. In design terms this would have some impact on the quality of the proposal, but it is noted that the DRP were overall supportive of the design strategy of the proposed development.

The detailing of the scheme will be essential to its quality and success. It will be important that the windows and panel details are recessed in order to provide visual relief and clarity to the elevations. This was a point made by the DRP. A condition requiring detailed drawings to be submitted will be needed to address this.

A key issue to be considered is that this application includes an increase in the height of the elevation facing Torwood Street by 2.3 metres. In the planning statement it is advised that this is due to improvements in the efficiency of hotel bedrooms. The applicant has attempted to address this increase in height through the design of the building at third floor level. The architectural

expression is recessive with cut backs at both the eastern and western ends of the building to reduce the visual impact. English Heritage were of the opinion that this approach would not go far enough in relating to the existing setting of the site, in particular to the way in which the existing buildings are stepped up Torwood Street to reflect the topography. English Heritage advised that the design of the proposed building needed further consideration to address this issue, particularly at the western end of the building (which is at the lower end of Torwood Street and would be particularly visible in views from the Harbour along Torwood Street). This has prompted a further revision of the design whereby four bedrooms have been deleted from the hotel resulting in a cut back of the third floor at the western end of the building. This revision introduces a stepped element to the building and introduces articulation that reflects the character of the townscape in the area.

The second key change in the design of the current scheme is the deletion of a new footpath link between Torwood Street and The Terrace on the eastern side of the building. This change is for commercial reasons as it would increase the floorspace within the building, and would reduce the cost of the development. The owner of the adjoining property has submitted an objection to the deletion of the footpath.

The provision of a new footpath link would have provided a visual break between the proposed development and the adjoining property and it would have also improved pedestrian access between Torwood Street and the Terrace as the existing footpath to the west of the site is unattractive due to its proximity to servicing areas of adjoining buildings and having a bend which means that there is no direct line of sight. Due to the significant change in levels the new footpath would have necessitated the provision of steps and it would therefore have only been accessible for the able bodied.

There are three considerations relating to the deletion of the footpath from the proposal. These are (a) accessibility and permeability. As referred to above there is an existing footpath link adjacent to the western boundary of the site. Consequently there is already a link between Torwood Street and the Terrace, and it would be difficult to justify the principle of requiring a second footpath in such close proximity to the existing one in terms of purely permeability. (b) quality of the footpath to the western boundary. The existing footpath is unattractive and likely to be underused for the reasons given above. As part of this proposal the applicant has been requested to carry out improvements to the footpath. Improved signage, lighting, surfacing and introduction of cctv would increase its quality and therefore likely levels of use. If all these measures were carried out it would be difficult to substantiate a need for an additional footpath within the application site. (c) effect on trading of adjoining property. The proposed development would increase footfall in the area due to increased activity that would result from the new uses on the site. The offices and hotel would have direct access to Torwood Street. It is difficult to argue that the loss of

the footpath on the eastern side of the site would reduce the movement of users of the premises onto Torwood street to such an extent that it would be harmful to the vitality of the immediate surrounding area. Therefore on balance it is considered that the deletion of the footpath link from the proposal would be acceptable.

There are two additional relevant points worth noting in relation to deletion of the footpath; firstly the DRP were of the opinion that provision of a new footpath as part of the development was not needed and secondly the Council's recently published draft master plan (for consultation) for Torquay Town Centre includes an aim of strengthening the route between the Terrace car park and the harbour through redevelopment potential of the existing Debenhams building.

Highways -

In support of the application a Transport Assessment and travel plan have been submitted. No off street parking provision is proposed in the application. It is noted that under the previous proposal (P/2011/0035) 14 parking spaces were approved to serve the residential units proposed. As there is no residential development included in the current scheme the car parking provision has been deleted. Not providing on site parking within the development provides an opportunity to make effective use of this town centre site and to use the floor space for commercial uses instead.

Pedestrian access to the retail and restaurant units would be from Torwood Street. The main entrance to the hotel and offices would be from The Terrace with separate lobbies provided for each use. A secondary pedestrian access to these units with stairs and a lift is proposed from Torwood Street. Servicing would take place from both The Terrace and Torwood Street.

Plans accompanying the Transport Statement propose a loading bay on The Terrace for use by service vehicles to the hotel and office elements of the development.

Servicing for the retail and restaurant uses would be from Torwood Street. A coach and loading bay is proposed along Torwood Street. It is proposed that loading is to be permitted between 6 am and 10 am with coach parking between 10 am and 8pm.

Secure long stay cycle parking would be provided within the hotel, office, retail and restaurant uses for staff who wish to cycle. For staff working in the offices 23 cycle parking spaces would be provided within a dedicated cycle store adjacent to the main office entrance on the Terrace. Five secure cycle parking spaces for hotel staff would be accommodated within the back house area of the hotel adjacent to the proposed delivery entrance for the hotel accessed from The Terrace. A further seven secure cycle parking spaces are to be accommodated

at the rear of the retail/restaurant uses accessed from Torwood Street. Short stay cycle parking for a total of six cycles in the form of three Sheffield stands would be provided on the Terrace adjacent to the office entrance. A further three cycle stands for six cycles are proposed on Torwood Street to the eastern side of the development adjacent to the retail unit.

In the Transport Assessment the Harbour car park is identified immediately north of The Terrace. This car park has 533 parking spaces including nine disabled and ten parent and toddler bays. An analysis of parking information is carried out and it is concluded that the car park has spare capacity.

The Council's Senior Transport Planner has raised a number of concerns about the information submitted by the applicant and asked for a number of revisions to the proposal. These are identified in detail above (see consultations section). The applicant has been asked to address these matters. Revised information is awaited and will be reported verbally to Development Management Committee.

Included in an objection to the application is a highways technical note produced by Hydrock who are professional highway consultants. In this objection it is concluded that the submitted Transport Assessment does not provide the Council with a robust evidence base upon which to form a judgement as to the likely merits and effects of the application. A number of points are raised which include the following;

Unreliable baseline traffic flows, which do not accord with DfT guidance.

The TA contains no detailed analysis of the causes or possible solutions to pedestrian incidents

Inconsistency on proposed floor space between TA and application form

The HGV loading bay would be too narrow

It is unclear how the enforcement of the drop off bay could be achieved

The measures proposed to improve the existing footpath cannot mitigate against existing issues or overcome the requirement for a more direct, convenient and attractive route that was previously proposed on the eastern side of the development

The trip generation data that has been used may lead to an underestimation of trips from the office component of the development. The TA does not provide a definitive prediction of the development's trip generation.

No traffic model outputs have been appended to the TA.

The loss of Torwood Street parking has not been properly assessed

Inconsistency with key paragraphs of the NPPF.

In response to this the applicant has submitted an additional highways note.

The further information requested by the Senior Transport Planner is still awaited. The applicant and the Council's Senior Transport Planner have agreed in a meeting that one loading bay will be provided on The Terrace to be used for both loading and for hotel drop off. An informal crossing point on the Terrace would be provided. On Torwood Street subject to appropriate agreement by the Council it is proposed to widen the pavement to create space for outside seating outside the restaurants which would also be intended to enhance the appearance of the area through the provision of street furniture, public art and bike stands. This would mean that the four on street parking spaces adjacent to the site would be lost. A coach parking bay would also be provided on Torwood Street. Traffic Regulation Orders (TRO) would be needed on both The Terrace and Torwood Street for the proposed changes to the highway. Included in these would be a restriction on loading/stopping on other parts of the Terrace, specifically to deter parking by blue badge holders. The applicant would be required to meet the cost of these through the S106 agreement. It should be noted that there is no certainty that the TROs would be agreed by the Council.

Heritage -

The application site is located within the Torquay Harbour conservation area which is defined as a designated heritage asset in the NPPF. The nearest listed buildings to the site are the Scala building on the opposite side of Torwood Street, the building occupied by Pizza Express to the east of the site, the Clock Tower, The Terrace, and the Unity Church in Montpellier Road to the north east of the site. Listed buildings are also defined as designated heritage assets in the NPPF.

The existing buildings on the site are mainly early 19th century with numbers 22 and 24 dating from the 18th century. All are recognised as key buildings in the Torquay Harbour conservation area, in the conservation area appraisal.

The NPPF contains a strong presumption against granting planning permission for development which will harm heritage assets, requiring particularly strong countervailing factors to be identified before it can be treated as overridden.

Para 131 of the NPPF states that when determining planning applications "Local Planning Authorities should take account of;

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation

- The desirability of new development making a positive contribution to local character and distinctiveness.”

At para. 133 it is advised that “where a proposed development will lead to substantial harm to designated heritage asset consent should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss”.

Para 134 says “where a development proposal will lead to less than substantial harm to the significance of designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

Para. 136 says “Local Planning Authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.”

Policies BE5 and BE6 in the Torbay Local Plan are also relevant to the assessment of the proposed development in terms of heritage. Policy BE5 requires development within a conservation area to preserve or enhance the character or appearance of that area. Policy BE6 requires development proposals to have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest.

As required by the policies contained in the NPPF and the Torbay Local Plan 1995-2011 it is important to assess the effect of the development on the appearance and character of the Torquay Harbour conservation area and the listed buildings in the vicinity of the site. Both English Heritage (EH) and the Council’s conservation officer had serious concerns about the impact of the proposal as originally submitted on the character and appearance of the Torquay Harbour conservation area. EH concluded that the proposal would have “a harmful impact on the special character and appearance of the conservation area. We have not received sufficient justification in line with the requirements of the NPPF to substantiate this harm and therefore, will be unable to support the application and would recommend that the application be refused”.

English Heritage makes reference to paragraph 134 of the NPPF in the consultation response so it appears that that EH considers the level of harm in this case is ‘less than substantial’. This interpretation is supported by the fact that two previous planning applications for redevelopment on the site have been considered by and not objected to by English Heritage. In this case in order to assess the heritage impact of the proposal the harm has to be weighed against the public benefits of the proposal, including its optimum viable use.

If it was considered that the proposal would lead to substantial harm to the

designated heritage asset the level of public benefit would need to be assessed as 'substantial' in order to outweigh that harm or loss.

The applicant has submitted a settings assessment to support the application. In this report the principle heritage asset that is identified as being susceptible to settings impact by the proposed development is the Torquay Harbour Conservation Area. The report identifies that the Torquay Harbour Conservation Area is characterised by a variety of materials, designs and architectural forms and for this reason is capable of accepting change in the form of new developments which are sympathetic to the overall character of the area. It is noted that the most crucial component of the setting which is highlighted in the Council's conservation area appraisal is the physical, topographic setting and spatial layout of the area. Developments which alter or contradict this aspect of the asset's setting are likely to pose a greater degree of impact. The report concludes that while the proposed development will pose a visual change within the conservation area, this is a change that can be accommodated and have a beneficial effect.

This conclusion of the applicant's settings assessment is contrary to the initial views of English Heritage. The Council's conservation officer is in agreement with English Heritage, that the original submitted scheme would result in substantial harm to the Torquay Harbour Conservation Area. He considers that as revised the proposed development would lead to less than substantial harm. As required by para. 134 of the NPPF it is necessary to weigh this level of harm against the public benefits of the proposal.

The applicant's setting assessment makes reference to considering the designated heritage assets within the Torquay Harbour Conservation Area but does not refer to these assets. There are a number of listed buildings within the vicinity of the site that include the Scala building on the opposite side of Torwood Street, the building occupied by Pizza Express to the east of the site, the Clock Tower, The Terrace, and the Unity Church in Montpellier Road. It is also considered that the impact on the setting of Vaughan Parade and Delmonte in Rock Road is also material. The two listed buildings that would be most affected by the development are the Scala building opposite the site in Torwood Street and The Terrace on the northern side of the site. With regard to the Scala building it is important that the new elevations of the proposed development compliment the elongated form of this building. The long term vacancy of the rear of the application site is harmful to the setting of the Scala building as it is dilapidated and highly visible from this building. It is concluded that there would be harm to the setting of the Scala building but it would be less than substantial. The five storey hotel element of the proposal would have an impact on the setting of the Terrace. This is by reason of the scale of the proposed building and its siting approximately 10 metres from the listed terrace. It is considered that whilst there will be some harm it will be less than substantial. The impact of the proposed development on other listed buildings referred to above would also be

less than substantial.

As required by para. 134 of the NPPF it will be necessary for the heritage impact of the scheme to be considered against the public benefits of the proposal. The way that this should be considered is not to be addressed as a simple balancing exercise but to consider whether there is justification overriding the presumption in favour or preservation.

There would clearly be economic benefits to the town from the proposed development. It would provide a substantial investment in a prominent site within the town centre. Two floors of the building would be used for offices (one smaller office may be used as a gym) which would generate employment. It would also bring workers into the town centre who would be likely to use nearby shops and facilities. The 131 bedroom hotel would increase vitality in the town centre and would also provide employment opportunities.

Assessment of Viability and Public Benefits[e1] -

It is necessary, under the terms of the NPPF (p134) to consider development viability and the public benefits package associated with the proposed scheme and with the scheme that would meet English Heritage requirements.

Paragraph 134 of the NPPF requires the Local Planning Authority in cases such as this (e.g. where a development proposal 'would lead to less than substantial harm to the significance of a designated heritage asset') to weigh the harm caused against the public benefits of the proposal, including securing the optimum viable use of the heritage asset. [c2]

The planning history of the site indicates that the LPA is satisfied that an appropriately designed, substantial new building on this site would not harm the Conservation Area, however English Heritage are concerned that the current proposals exceed what would be acceptable on the site and have recommended that the building is reduced in size, resulting in the loss of 10 hotel bedrooms.

The applicant has indicated that the size of the current proposals are the minimum that is required to make redevelopment of the site financially viable.

The applicant has now submitted sufficient detail to allow an assessment of both the public benefit of the scheme and its financial viability.

The applicant has submitted the following information to support an assessment of the public benefits. It is broken down into economic, social and environmental benefits in line with para. 7 of the NPPF which identifies these as the three dimensions to sustainable development.

Economic

Total construction investment approx £14million

Total GDP increase £39.76m broken down into;

- Direct impacts (eg wage income) £14million
- Indirect impacts (eg supply chain) £15.26 million
- Induced impacts (eg increase in supply/demand in the wider economy) £10.5 million
- Tax benefits to the Treasury £7.84 million
- Construction jobs 148- 294 FTE
- Operational jobs either;

Between 348 -410 new jobs split as

- Hotel 44- 106 depending on operator
- Office (assume 2850 sq m) 238
- Restaurants 47
- Retail 19

Or Between 320 – 382 new jobs split as

- Hotel 44- 106 depending on operator
- Office (2,450 sq m) 204
- Gym (400 sq m) 6
- Restaurants 47
- Retail 19

Business rates tax receipt to Torbay Council

Increased spend – from hotel guests £2.8m -£3.7m per annum (assuming a range of 65- 85% occupancy) and from office employees arising from lunchtime

Social

Social benefits of new direct and indirect FTE employment

Supporting the vitality of the town centre and local visitor and other facilities through increased spend from hotel guests and office workers.

Environmental

Regenerating an underused and vacant town centre site.

Delivering a quality development that will contribute to the character and distinctiveness of the area.

Locating new development in a sustainable location.

The applicant has advised that the effect of the loss of 10 bedrooms on the local economy would be as follows;

- Assuming occupancy of 1 person per room and 85% occupancy a loss of £276,122 per annum
- Assuming occupancy of 1 person per room and 65% occupancy a loss of £211,152 per annum

- Assuming occupancy of 2 persons per room and 79% occupancy a loss of £513,263 per annum.

The applicant has advised that the proposal, if modified to meet English Heritage requirements, would not be viable and would not proceed if the development had to meet these requirements.

Para. 134 of the NPPF requires the assessment of public benefits to include securing the optimum viable use of the heritage asset. The proposal would result in the loss of the existing building, but will make effective use of the whole site, by significantly increasing the volume of development on the site.

In conclusion, the proposal would result in some harm to the Torquay Harbour conservation area and this has importance and carries weight in the planning balance. There will be public benefits from the significant level of investment that this proposal would generate and from the number of jobs that would be created. The economic regeneration in this location in Torquay would make a significant contribution to the viability town centre as it is in a prominent location.

Archaeology -

Policy BE9 in the Torbay Local Plan 1995-2011 states

“where development proposals may affect a site of archaeological potential, the applicant will be required to commission an archaeological assessment”

A historic building appraisal and rapid archaeological appraisal have been submitted in support of the application. This is an update of the archaeological appraisal that was submitted as part of the previous application, prepared in 2009. It advises that the significance of the buildings has been assessed, and they are considered to be a heritage asset of low significance, with this significance deriving from their evidential, historical and artistic values.

The Council’s archaeologist originally requested an evaluation of the buildings not previously entered to be submitted prior to the determination of the application. The updated report advises that the presence of asbestos has made access impossible. In the light of this it is recommended that a condition is requiring implementation of a programme of archaeological works, is imposed.

Demolition -

It is proposed that all of the buildings on the site would be demolished. Paras. 131 and 132 of the NPPF advise that great weight should be given to the conservation of a designated heritage asset and that clear and convincing justification should be required for any harm or loss. As part of this application as required by para.133 of the NPPF it must be demonstrated that the loss of the designated heritage is necessary to achieve substantial public benefits that

outweigh the harm or loss.

In support of the application a statement of justification for demolition has been submitted. This notes that despite attempts to develop schemes that retained varying amounts of the building group it has proved unviable to incorporate a meaningful amount of the existing structures.

The applicant has submitted as historic buildings appraisal that concludes the significance of the building are considered to be a heritage asses of low significance, with this significance deriving from their evidential, historical and artistic values.

A key consideration in deciding whether demolition of the existing buildings would be acceptable is the quality of the replacement scheme. As referred to above the proposal would deliver regeneration benefits within the town centre. As submitted English Heritage have concluded that the proposal is not appropriate in the conservation area and therefore the position has not yet been reached that demolition of the existing buildings meets the tests within the NPPF.

Impact on residential amenity -

A letter of objection has been received from the owner of a flat immediately to the west of the site. This is located on the opposite side of the footpath, approximated 5.5 metres from the proposed building. The principle windows to the living area, kitchen and bedroom in this flat face the application site. The proposed development would inevitably have an impact on the residential amenity of the occupier. This would be in terms of the proximity of the proposed building to the flat which would impact on the level of light to the flat, and the outlook from this property. This is a material consideration that has to be taken into account in determining the application.

In order to take this relationship into consideration the applicant has revised the west elevation of the building to include oriel (angled) windows to the hotel bedrooms facing this property on the third and fourth floors. In addition obscure glazing to the office windows is proposed at first and second floor level.

Land conditions -

In support of the application a Phase I desk study and Phase II Geotechnical and Environmental Investigation Report has been submitted. It is noted that this report was produced in 2010 and is based on a former development proposal on the site that included residential units. It is considered that the principles relating to land conditions will remain the same for the current proposal and therefore it is not necessary to request the report be updated. The Council's Senior Engineer has reviewed the and not raised any issues.

The report identifies that there is a substantial contiguous pile wall along the majority of the rear boundary of the site up to the Terrace as the higher level.

This retaining wall is anchored with reinforced concrete walling beams between the horizontal rows of anchors and blockwork facing, and was constructed in 1991. This new retaining wall forms most of the rear site boundary, with the exception of the western end where a much older cemented limestone retaining wall is present behind the soil mound. The Council engineer has advised that an inspection gap is required for maintenance of the retaining wall. A condition should be imposed to ensure that adequate consideration is included in the development for maintenance of stability of both the older masonry section of the highway retaining wall and the piled/anchored highway retaining wall.

With regard to contaminant levels on site, low levels were recorded and the site is considered to be of Low to Moderate Risk in respect of human health in relation to the proposed development. It is advised that

- Basic Radon protective measures are necessary during construction
- Further investigations will be required in an area of the site where levels of hydrocarbons were encountered in the groundwater.

Viability -

In an objection to the application the issue of viability is raised. Part of para. 173 in the NPPF is quoted which states “pursuing sustainable development requires careful attention to viability in plan making and decision taking”.

The objector notes that planning permission has been granted for two previous applications on the site neither of which has materialised. He suggests that the “previous permissions cannot carry any weight in the decision making process”.

In response to this point further reading of para.173 in the NPPF shows that it is not intended to require Local Planning Authorities (LPA) to consider the financial viability of every scheme before them, it requires LPAs to consider the cost requirements that it puts on development and ensure that they are not of such a scale that viability is threatened.

It is not accepted that the earlier permissions are not capable of being material considerations. In officer’s opinion it is for the Local Planning Authority as decision maker to decide what weight is appropriate to give to the earlier consents.

The applicant has submitted further information explaining the issues of viability affecting the previously approved scheme and clarifying how the current proposal responds to viability issues. These include the following;

- Improves usable/lettable floor area
- Simplifies party wall issues
- Removes facades
- Reduces extent of external works

- Deletion of residential element reduces impact on structure and simplifies the split of uses
- Efficient layout of guest rooms which would be of a standard size and layout
- Third floor no longer set back allowing a double loaded hotel corridor to be accommodated.
- Simplified mix of uses per floor
- Simplified structural layout
- Reduced complexity of fire separation between uses.

Drainage -

South West Water has raised no objection to the application provided it is undertaken in accordance with the submitted details. The Environment Agency has raised no objection subject to conditions relating to contamination.

The Council's Drainage officer supports the flood resistant and resilient construction measures that are proposed within the A3 units 01 and 02. He has raised no objection subject to conditions relating to detailed design of surface water drainage and the submission of a flood management plan.

S106/CIL -

Under application reference P/2011/0035 a Section 106 agreement was signed that included a contribution of £100,000 for sustainable transport. This was a lower contribution than would be required in accordance with the Council's SPD "Planning contributions and affordable housing". The applicant had submitted a viability assessment to justify a reduction in the level of contributions. Also included in the agreement were the following;

- A range of measures to ensure that the highway retaining wall at the back of the site would be properly maintained, during and after the development
- Measures to secure the provision of acceptable travel plans for the various uses on the site
- Careful removal and potential re-use of stone from the parapet wall
- A review of viability is the scheme was not complete within 3.5 years from the date of approval.

In respect of the current proposal based on the provision of new floor space to accord with the SPD "Planning contributions and affordable housing" the following sustainable transport contributions would be required;

£382,802 with 4 x B1 offices

or

£415,262 with 3 x B1 offices and 1x gym

In the SPD it is advised that mitigation should be applied for the creation of new employment on the site. Based on the levels of employment estimated by the applicant the mitigation would be

£857,690 with 4 x B1 offices

Or

£785,340 with 3 x B1 offices and 1x gym

It can be seen that the amount of mitigation for new employment created by the development will off set the requirement for payment of a sustainable transport contribution.

There are a number of works to the highway such as forming the loading bay on The Terrace, the coach parking bay on Torwood Street, works to the pavement on Torwood Street, improvements to the footpath and the traffic regulation orders that are directly related to the development and will be necessary to make the development acceptable in planning terms. The cost of these works is as follows;

- £4,650 for Traffic Regulation Orders for The Terrace and for Torwood Street to include loading / unloading controls, including signing and lining, parking provision and removal, coach parking
- £5000 for 2 Informal pedestrian crossing access points adjacent to the site to the Harbour car park across Montpellier Road west of the road up to the car park entrance – secured by S278 as enabling works
- Pavement widening as part of an improved street scene to help reduce pedestrian vehicle conflicts in the area adjacent to the site and down to the existing zebra crossing – estimated £80,000/£100,000 - secured by S278 as enabling works
- Public Right Of Way connecting Torwood Street to the Terrace - improve lighting, upgraded with CCTV at either end, new surfacing with granite paving and visual attraction improvement estimated - £30,000/£40,000 secured by S278 as enabling works
- Harbour Car Park reserved parking – subject to negotiations ongoing with parking direct secured by S278 as enabling works
- VMS signing for car parks estimated cost £15,000

The following items that were included in the previous S106 agreement should be included in the new agreement that will be required for this proposal;

- A range of measures to ensure that the highway retaining wall at the back of the site would be properly maintained, during and after the development

Conclusions

In conclusion, this proposal is effectively a revision to the development approved under application reference P/2011/0035. The main changes are the mix of development proposed (the residential element has been deleted in the current scheme), changes to the design of the building, the size of the building would be increased and the deletion of a new footpath link between Torwood Street and the Terrace. The principle of the development in this location would be consistent with policies in the Torbay Local Plan 1995-2011. The prominent location of the application site within the Torbay Harbour Conservation Area is a material consideration. Considerable negotiation has been carried out on the design of the building in order that it would not have an adverse impact on the appearance and character of the conservation area. The scheme has been revised since it was submitted which has included reducing the height of the building in the south west corner where the relationship with the adjoining buildings is most sensitive.

The proposed development would lead to some harm to the appearance and character of the Torquay Harbour Conservation area. In accordance with Section 12 of the NPPF strong countervailing factors need to be identified before granting planning permission for development that would harm a heritage asset. It is considered that this proposal would provide sufficient public benefits to justify the impact on the character of the area. The proposed development would result in considerable investment in the development and would provide an economic regeneration opportunity within the town centre. It would provide new employment, through the provision of a minimum of 2450m² of B1 office floor space. In addition the provision of a new 131 bedroom hotel within the town centre would make an important contribution to the tourist industry which is recognised as being the 'cornerstone of the economy of Torbay'. English Heritage has maintained their objection to the proposed development following submission of revised plans. It is their opinion that the third floor of the Torwood Street elevation would be prominent and would have a looming quality over the streetscape. They suggest that the third floor should be set back into the site. Similarly they consider that the upper storeys of the Terrace elevation should also be set back into the site. The applicant has advised that the further modifications requested by English Heritage would make the scheme unviable. A viability assessment has been submitted that supports this point. On balance subject to confirmation from the TDA that evidence to demonstrate the suggested revisions by English Heritage would result in the proposed development not being a viable proposal for this site, it is considered that the proposal would constitute an acceptable form of development

Condition(s)/Reason(s)

01. sound insulation
02. no demolition without contract for redevelopment
03. accord with flood risk assessment
04. finished floor levels

05. contamination scheme
06. control over hours of demolition and construction
07. operation of construction equipment
08. method of piling to be agreed
09. method of controlling vibration in relation to construction of scheme
10. minimise dust during construction
11. details of off site highway works
12. drainage details
13. archaeological scheme of investigation
14. scheme for footpath improvement
15. no equipment on roof
16. details of impact on highway wall
17. monitoring of retaining wall
18. details of loads on retaining wall
19. assessment of change in loadings to retaining wall

20. details of protection to original masonry wall
21. gym to be used for no other purpose in class D2
22. large scale details
23. detailed schedule of materials
24. extract ventilation system

Relevant Policies

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