

Application Number

P/2015/0097

Site AddressLand To The Rear Of Broadway
Dartmouth Road
Brixham**Case Officer**

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.

Executive Summary/Key Outcomes

The application seeks outline consent for a development of up to 10 residential dwellings and associated infrastructure, within an area of land to the west of the Dartmouth Road and south of the Weary Ploughman. The site is within the Countryside Zone.

Outline permission was granted for this scheme at the Development Management Committee meeting of 13.10.2014. Although outline consent was given to the previous application (P/2014/0687) the applicant has reapplied as a result to changes in Government policy. These changes mean that the local planning authority can no longer seek 'pooled' contributions in respect of developments of 10 dwellings or fewer with a maximum combined gross floorspace of less than 1000m². Therefore the applicant seeks a fresh approval with a new section 106 Agreement to accord with Government policy. The new Agreement is likely to include transport, greenspace/recreation and waste contributions, but no other contributions. DMC's original approval would have secured around £29,000. The new Agreement is likely to secure around £2,000, to mitigate the impacts of development.

Recommendation

Subject to completion of a S106 legal agreement, outline planning permission be granted with conditions as set out at the end of the report.

Target Date

The 13 week target date for determination of this application is 15.05.2015.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House. Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south. The site is

within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding. A Tree Preservation Order covers the east and north boundaries of the site, to the west boundary the land is designated as an Area of Great Landscape Value (AGLV). The site area measures 0.27 hectares.

The site is located within the Churston Village Envelope in the emerging Local Plan "A landscape for success". This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

The application seeks permission in outline for access to a development of up to 10 dwellings and associated infrastructure. All matters other than access are reserved.

As the application is in outline with appearance, layout and scale to be considered at reserved matters stage the form of development does not need to be addressed at this time. It is the principle of the development on the site that should be considered under this application.

Summary Of Consultation Responses

Arboricultural Officer - No objection to the proposed access, however any future development may be restricted due to the protected trees and hedgeways on the site.

Environment Agency - No objection; the recommendations in the submitted contamination assessment should be implemented.

English Nature - No objection

Drainage - No objection

RSPB - Awaiting revised comments

Highways/Strategic Transportation - The southern visibility splay will need to be improved, around the radius on Dartmouth Road towards Brixham. The councils policy would be to adopt the new road. Therefore the developer would need to enter into a Section 38 Agreement with the council and submit detailed technical drawings using dimensions and specifications from The Torbay Council Design Guide. With the additional trips it is recommended that a right turn lane off Dartmouth Road into the existing side road, and suitable road demarcation provided to allow vehicles to turn safely right out of the side road towards Brixham.

Summary Of Representations

None received.

Relevant Planning History

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved by Development Management Committee on 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
 2. Visual Impact
 3. Impact on Residential Amenity
 4. Access and Impact on Highways
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1. The Principle of the Development

Saved Adopted Torbay Local Plan Policies 1995-2011

- 1.1 As the site is within the Countryside Zone the proposal must accord with the requirements of policy L4 of the saved adopted Torbay Local Plan 1995-2011. This policy aims to safeguard Torbay from urban sprawl and the merging of urban areas in order to preserve the special character of these areas and of the towns and villages within Torbay.
- 1.2 The policy states that Countryside Zones have been identified in areas where it is desirable to retain the existing rural character and development should be designed so as to minimise the impact on the open countryside. An important consideration is therefore whether the proposed development would affect the rural character of the area. The Torbay Landscape Character Assessment describes the land to the west of the site as rolling farmland; however the site itself is defined as having an urban character (Type 9 Main Cities and Towns). Policy L4 does not prevent all residential development within the Countryside Zone. Point 6 of this policy specifically states that "infill development within the existing areas of settlement" could be acceptable, provided the rural character of the area is not adversely affected. The emerging local plan identifies the site as within the Churston Village Envelope which would suggest that the council deems the site to be an area of infill within an existing area of settlement.

- 1.3 The current application also requests permission for the formation of an access. The proposed access is off the existing slip road serving the Weary Ploughman public house. It would be at a lower level than the Dartmouth Road and will be partially screened by trees. As such the proposed access would not have a negative impact on the aesthetics of the surrounding area. The proposed access is acceptable.
- 1.4 Whilst the layout, design and massing drawings are indicative only, they do help illustrate the way in which development could be accommodated on the site. They demonstrate that, on balance there is potential for an appropriate development to comply with policy L4. Policies H2 & H9 require development to be of a high design quality and to be of an appropriate scale, massing and density as well as to incorporate the surrounding residential context. This scheme offers the opportunity to provide high quality design as well as a chance to enhance the environmental and landscape qualities of the area. These matters will be determined at Reserved Matters stage. The proposal therefore has the potential to comply with policies H2 and H9 and H10 of the saved adopted Torbay Local Plan 1995-2011.

Emerging Torbay Local Plan "A landscape for success"

- 1.5 Within the emerging Local Plan the site remains within the Countryside Zone. However it is also included within the Churston Village Envelope, this policy allows for suitable infill which is of an appropriate, modest scale and is consistent with the relevant Local Plan Policies. The emerging plan policies do carry some weight at this stage although the adopted Local Plan policies carry more weight.
- 1.6 Policy DE7 (design) of the emerging Local Plan, which is in line with para. 55 of the NPPF, is also relevant and carries a little weight to the decision making process. It requires development to:
 - Have a clear urban structure and grain that integrates with the surrounding context;
 - Relate to the surrounding built environment in terms of scale, height and massing; and
 - Evolve high quality architectural detail with a distinctive and sensitive palette of materials
- 1.7 The indicative plans submitted with the application would not be acceptable in relation to this policy. But they do show that up to 10 homes could be built on the site subject to meeting the design policy objectives.
- 1.8 In relation to the policy requirements of the existing and emerging Local Plans, as describes above, it is considered that the principle of development is acceptable. Detailed matters, such as design, will be

considered at Reserved Matters stage.

2. Visual Impact

- 2.1 The visual impact of the proposed access will be minimal given the existing tree coverage, that it is slightly lower than road level and that it is located off of an existing access used as a slip road to the Weary Ploughman.
- 2.2 It is considered that the visual impact of the residential development would be acceptable with a suitable layout, design and landscaping scheme. This can be considered as part of the Reserved Matters stage.

3. Impact on Residential Amenity

- 3.1 The site is not located in an area where there are numerous residential properties at present and as such the only impact will be on the adjacent property known as "Broadway". The application at this stage is in outline and solely for access, the number of dwellings and their siting is yet to be determined and therefore the potential impact on this property would need to be judged at Reserved Matters stage.
- 3.2 The Weary Ploughman public house is in excess of 50 away from the site. Given this distance it is considered that there would be no unreasonable amenity issues to this building as a result of the development of this site, however this will be reconsidered once a Reserved Matters application is submitted.

4. Access and Impact on Highways

- 4.1 The consultation responses suggest that the access will require improvements in order to be sufficient to allow for residential purposes. These include the addition of a right turn lane off of Dartmouth Road and suitable road demarcations to allow safe right turns from the development. However there is scope to achieve these requirements, within and immediately adjacent to the site and within the carriageway. In order to ensure these works are undertaken the developer will be required to enter into a section 278 agreement with the Council. It is also likely that the Council will enter into a section 38 agreement to adopt the access road. As such technical drawings and specifications compliant with the Torbay Council Design Guide will be required.
- 4.2 The objection to this application, whilst supporting the principle of development, raised issues in relation to the safety of the proposed junction given the increase in vehicle movements. However it is considered that these issues can be overcome by the submission of

detailed drawings and a section 278 agreement with the council.

S106

In November 2014 the Government made changes to planning obligations (Section 106) for smallscale developments (10 or less homes) and self-build development. That took immediate effect, for those applications on which a decision had not yet been issued and on future applications. It meant that affordable housing and 'tariff style' contributions could not be sought from small developments. 'Tariff-style' contributions are defined as contributions which are sought to contribute to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area. In Torbay these include sustainable transport, South Devon Link Road, loss of employment, lifelong learning, greenspace and recreation, education and stronger communities. However, financial contributions can still be required where they will not be pooled and are needed to pay for specific items. Those contributions must still be compliant with the CIL Regulations.

The applicant has confirmed that they wish to enter into a Section 106 agreement and, bearing in mind the information above, this agreement will include contributions towards waste, sustainable transport and greenspace.

Conclusions

The proposed development is considered to be appropriate for outline approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

01. Reserved Matters

- a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:
 - (i) layout (including the siting of the proposed dwellings, car parking o& bin and cycle stores);
 - (ii) scale (including the datum level at which the dwelling are to be constructed in relation to an agreed fixed point or O.S. datum);
 - (iii) appearance (including materials for all external hard-surfaced areas);
 - (iv) landscaping (including boundary treatment and all means of enclosure).
- b) The reserved matters shall be carried out as approved.
- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To ensure that adequate information is available about the

detailed nature of the proposals and in accordance with the objectives of Policies BES, BE1, L4, H9 and H10 of the Saved Adopted Torbay Local Plan 1995-2011.

02. The recommendations and proposals set out in the 'Preliminary Geotechnical and Contamination Assessment Report' undertaken by 'Ruddlesden Geotechnical Ltd' dated December 2013 (ref: SR/CG/DT/13476/PGCAR) submitted with this application, shall be implemented in full prior to any development taking place.

Reason: To ensure that appropriate measures are taken regarding the potential for contaminated land on the site in accordance with Policy EPS, EP3 and EP7 of the Saved Adopted Torbay Local Plan 1995-2011.

03. Prior to the commencement of development a Section 278 Highways Agreement shall be entered in to, in order to secure the necessary works to the public highway. Unless otherwise agreed in writing with the Council the 278 works shall include work to Dartmouth Road to form a right turn filter lane to the site including road calming measures. This shall include detail of materials and finishes to be used. The works shall then be implemented prior to the occupation of the first dwelling.

Reason: Reason: In order to ensure a suitable form of development in accordance with Policies TS, T1, T2, T3, T18, T22 and T26 of the Saved Adopted Torbay Local Plan 1995-2011.

04. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority:
- (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land:
 - (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.
 - (3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for

the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land:

- (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. No dwelling shall be occupied until the approved surface water drainage system has been completed as approved and the approved surface water drainage system shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

05. No development, or any other works, including any site clearance, shall be undertaken until a Cirl Bunting survey, undertaken by a suitably qualified ecologist, has been submitted and approved by the Local Planning Authority. Unless previously agreed in writing with the Local Planning Authority, any mitigation required as a result of the survey shall be implemented prior to any development, or any other works, including site clearance taking place on site.

Reason: To preserve and enhance the biodiversity of the site, and in order to comply with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011.

06. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development. whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area, and to accord with policies H10, L4, L10, BE1 and BE3 of the Torbay Local plan (1995 - 2011).

07. No development shall take place until drawings of the bin store(s) and details for the removal of waste likely to be generated by the development are submitted to and approved in writing by the Local Planning Authority. The bin store(s) shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings. The details for the

removal of waste likely to be generated by the development shall be implemented as approved prior to the occupation of any of the dwellings and maintained thereafter in accordance with the approved details.

Reason: To ensure appropriate facilities are provided for the storage and removal of waste likely to be generated by the development, including recycling, in accordance with saved Policy W7 of the Adopted Torbay Local Plan 1995-2011.

08. No development shall take place until drawings of the cycle store(s) are submitted to and approved in writing by the Local Planning Authority. Notwithstanding the drawings listed under Condition P1, provision shall be made for the storage of 2 bicycles per property. The cycle store(s) shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings.

Reason: To encourage and facilitate cycling in accordance with saved Policy T2 of the Adopted Torbay Local Plan 1995-2011 and Section 4 of the NPPF.

09. No development shall take place until an Extended Phase 1 Habitat survey has been submitted to the Local Planning Authority for approval. Any recommendations in the approved survey shall be adhered to throughout the construction period.

Reason: In the interests of biodiversity and in order to accord with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, and paragraph 118 of the NPPF.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
HS - Housing Strategy
H9 - Layout, and design and community aspects
H10 - Housing densities
CF6 - Community infrastructure contributions
LS - Landscape strategy
L1 - Areas of Outstanding Natural Beauty
L4 - Countryside Zones
L10 - Major development and landscaping
TS - Land use transportation strategy
T25 - Car parking in new development
T26 - Access from development onto the highway
NCS - Nature conservation strategy
NC5 - Protected species