

**Application Number**

P/2015/0320

**Site Address**101 Braddons Hill Road East  
Torquay  
Devon  
TQ1 1HF**Case Officer**

Mrs Ruth Robinson

**Ward**

Wellswood

**Executive Summary/Key Outcomes**

This application, for redevelopment of the storage depot to the rear of Torquay Museum to provide for 9 dwellings, was previously considered at the DMC meeting of the 8th June. The report considered at that meeting is attached as Appendix 1. It was approved subject to:

1. Submission of revised plans and a drainage statement.
2. Conclusion of a S106 agreement to secure waste facilities, site specific highway works, sustainable transport and green space contributions.
3. A range of conditions as detailed below.

Members also requested that the quality of materials be reviewed prior to the issue of the decision.

Revised plans have been received which are acceptable and the Drainage Engineer has confirmed that as the site is all hard surfaced then the drainage strategy can be dealt with by condition.

The purpose of this supplementary report is to:

1. To update Members on the changes to the palette of materials which has increased construction costs and generated a request from the applicant for some flexibility regarding payment of S106 contributions.
2. To review the S106 contributions requested in relation to Greenspace and sustainable transport in light of the change in guidance from central government.

**Recommendation**

Approve: subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, possibly sustainable transport and site specific highway works and to the following conditions.

1. Large scale details of key features.
2. Samples or specification of all external materials.
3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.

4. No further demolition of stone boundary walls beyond that identified in the schedule of works.
5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.
6. Implementation of landscaping scheme.
7. Closure of existing access and appropriate treatment.
8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.
9. Contaminated Land Survey and Remediation Strategy.

Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee.

### **Statutory Determination Period**

This application should have been determined by the 4th June. It is now out of time but an extension of time has been agreed.

### **Site Details**

The site comprises a furniture storage/removals depot located to the rear of Torquay Museum and the Living Waters Church both of which are Grade II listed. It is also within the Torquay Harbour Conservation Area. The site is currently occupied by a large pitched roof single storey storage shed with a 2 storey wing of a similar height. It is of no intrinsic architectural or historic merit and is set in a hard surfaced yard.

The site is served by a vehicular access onto Braddons Hill Road East.

### **Detailed Proposals**

This application is a detailed one for the redevelopment of the site to provide 9, two storey 3 bed dwellings arranged in detached and semi detached forms around a shared courtyard area with parking for 9 cars and with hard and soft landscaping. The existing access from Braddons Hill Road East is to be closed off and a revised access created onto Museum Road by partial demolition and remodelling of the stone boundary wall.

### **Summary Of Consultation Responses**

*Highways:* Do not object to the scheme in principle but consider that as the courtyard serves more than 5 dwellings then the route through the courtyard along with a turning head should be constructed to an adoptable standard. More detail in relation to its construction is therefore required.

They also require the provision of a cycle route to Babbacombe Road and the introduction of footway widening to the junction of Babbacombe Road and Museum Road to overcome visibility concerns. Both these are to be provided via a S278 Agreement .

*Conservation Officer:* Considers the scheme to be acceptable in terms of its relationship to the listed buildings and to the character and appearance of the Conservation area.

*Arboriculturalist:* Has requested amendments to the landscape scheme to include larger and more appropriate specimens to achieve greater visual impact particularly in relation to strategic views into the site.

*Drainage Engineer:* Requires more information regarding the potential for sustainable means of surface water disposal.

### **Summary Of Representations**

There have been 6 letters of objection based on the creation of the new access impact of traffic on Museum Road which is considered to be too narrow and congested to cope with the additional traffic; concerns also include the level of car parking provided on site and the partial loss of the stone wall.

One letter offers support providing the closure of the existing access is achieved and there is no increase in height of the replacement buildings.

These have been reproduced and sent electronically for Members consideration.

### **Relevant Planning History**

P/1991/1066: Construction of 16 flats: Approved 19.09.91

P/1987/1810: Construction of 16 flats: Approved 3.12.87.

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

There are 2 key issues to consider.

1. A review of materials Members requested and the impact on construction costs.
2. A review of the requests for sustainable transport and greenspace contributions in light of the changes to government guidance in relation to schemes of less than 10 units.

Each of these will be addressed in turn.

#### *1. Review of Materials.*

The scheme considered by Members on the 8<sup>th</sup> June included natural slate roofs, rendered walls, UPVC windows and mineral fibre board cladding. These buildings will be viewed from key vantage points between listed buildings (the Museum and Living Waters Church) and it was felt that there was scope for improvement in the quality of materials to be used.

In response, the applicant has agreed to use aluminium windows, which provide a far finer and more elegant profile and has deleted the mineral board cladding to

be replaced with a rough cast render panel to add some texture to the appearance of the elevations.

The use of aluminium windows had been suggested to the applicant early in the negotiations on the basis that it would enhance the simple lines of the proposed dwellings. It has now been agreed but it does add significantly to the construction costs. A simple appraisal has been submitted which indicates an increase in costs of around 40% for the windows.

This does impact on the viability of the scheme and the applicant has requested that consideration be given to reducing the level of developer contribution. A viability assessment has been submitted which indicates a developer profit of around 8%.

2. *Review of sustainable transport and greenspace contributions in schemes of 10 units or less*

Revised guidance from DCLG is that 'tariff style' contributions should not be sought from 'small scale' developments of 10 units or less which have a maximum combined gross floor space of less than 1000m<sup>2</sup>.

It is also necessary for the request to meet the following tests as defined in the Community Infrastructure Levy 2010 and the NPPF. These are that they are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to the development.

Appeal decisions increasingly support the DCLG position which requires some rigour about the requests for contributions and certainty that they meet the relevant tests. Failure to do this could result in costs against the Council if we are unable to defend our position at appeal.

The works requested by Highways to improve visibility (kerb build outs, cost estimate £7,500) are necessary to make the development acceptable in planning terms. The waste contributions (£450) are directly related to the development, and therefore can also be considered necessary .

The contributions towards a cycle route, (£10,000) and towards 'works' in Torwood Gardens are more difficult to justify but for slightly different reasons.

The sustainable transport request for a contribution towards the provision of a cycle lane would fall to be considered as a tariff style contribution unless it is for an identified and relevant part of the network which is close to delivery. If it is towards a larger infrastructure project and reliant on pooled contributions then it would be difficult to justify under current guidelines. However, clarity is being sought from Highways in relation to this request.

A Greenspace contribution was justified in the original report in that the scheme was slightly below the standards in the emerging local plan for the provision of amenity space. As the scheme involves (small) family homes, given the proximity to Torwood Gardens and the extra impact the development would have it could be argued that such a contribution is both reasonable and necessary.

However, in order to avoid the contribution being defined as 'pooled' a specific project needs to be identified for the money to be spent on. The reinstatement of the Compass feature in the gardens was identified as a possible scheme. However, this is not now going ahead and in the absence of an implementable scheme which is relevant and related to the development in question such a contribution would be contrary to current guidance.

3. *The demolition of the building and disposal of asbestos.*

The viability assessment includes detail regarding demolition costs and it is apparent that the buildings include asbestos. Whilst this will be dealt with under license from the EA, it indicates that the site has some contamination issues and a Contaminated Land Survey and Remediation strategy should be required by condition.

### **Conclusions**

The scheme is considered to be acceptable from a design perspective and revised plans have been received which are satisfactory and reflect the improvements in materials that Members requested. This has affected the viability of the scheme as construction costs have increased. As a consequence, the applicant has asked that the S106 contributions be reduced and has submitted a basic viability assessment to illustrate his reduced profit margin.

Coupled with this is the rise in appeal decisions which are clarifying that contributions on smaller schemes should only be sought in clearly defined circumstances which comply with recent DCLG guidance.

In respect of community infrastructure contributions, clarity is being sought from Highways about the status of their request for funding for a cycle lane. It is likely that this request will be contrary to DCLG guidelines but an update will be provided at the meeting. Greenspace contributions may have been regarded as 'reasonable' or 'necessary' due to the slight shortfall in amenity space and the close proximity of Torwood Gardens. However in the absence of a clearly defined project for the funding to be spent on it cannot now be justified against DCLG guidance.

### **Recommendation**

Approve: subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste and site specific highway works and to the following conditions.

1. Large scale details of key features.

2. Samples or specification of all external materials.
3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.
4. No further demolition of stone boundary walls beyond that identified in the schedule of works.
5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.
6. Implementation of landscaping scheme.
7. Closure of existing access and appropriate treatment.
8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.
9. Contaminated Land Survey and Remediation Strategy.

Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee to secure the following contributions:

- |                               |   |
|-------------------------------|---|
| 1. Waste Management           | £ 450   |
| 2. Highways (kerb build outs) | £ 7,500   |
| 3. Highways (cycle route)     | £10,000 (subject to further info from Highways) |

## **APPENDIX 1 – Original Committee Report**

### **Description**

*Demolition of existing warehouse, and construction of 9 two storey dwellings with 9 car parking spaces. Partial demolition of stone boundary wall fronting Museum Road to create vehicular and pedestrian access.*

### **Executive Summary/Key Outcomes**

*The site, currently used as a furniture storage/removals depot is located to the rear of Torquay Museum and the Living Waters Church which are both Grade II listed. It is within the Torquay Harbour Conservation Area. The existing buildings on the site are large, poor quality sheds set in a hard surfaced yard. The site is set at a lower level than adjacent building groups and is largely screened from public view. Vehicular access is via a service lane from Braddons Hill Road East.*

*The proposal involves redevelopment to provide 9 x 3 bed dwellings with 9 car parking spaces arranged around a well designed and landscaped courtyard. Revised plans are awaited to confirm design amendments that the applicant is agreeable to. A good quality design to the buildings and the courtyard has been secured.*

*Neighbour objection relates to the creation of a new access onto Museum Road and the level of parking provided on site.*

*The new access requires the partial demolition of a distinctive and attractive boundary wall fronting Museum Road. There is no highway objection to this and from a heritage asset perspective, this wall is currently in a poor state of repair and an associated planting bed is overgrown. A schedule of repairs will ensure that the wall is sensitively restored and a detailed landscape scheme will provide an enhancement to the public realm. It also provides an entrance with a more 'residential character' than currently serves the site.*

*In terms of parking, the scheme is compliant with current Local Plan policy (H10 and T25) as it is well located for local services and public transport.*

*It is therefore considered that the scheme should be granted conditional approval subject to securing contributions towards site specific highway matters (footway widening and cycle route), waste and possibly greenspace. An update on this will be provided at the meeting.*

### **Recommendation**

*On receipt of revised plans, a drainage statement and subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, sustainable transport and possibly greenspace contribution then it is recommended that planning permission should be granted for the development subject to the following conditions.*

- 1. Large scale details of key features.*
- 2. Samples or specification of all external materials.*
- 3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.*
- 4. No further demolition of stone boundary walls beyond that identified in the schedule of works.*
- 5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.*
- 6. Implementation of landscaping scheme.*
- 7. Closure of existing access and appropriate treatment.*
- 8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.*

*Any S106 agreement or Unilateral Undertaking to be completed within 3 months of the date of this committee.*

### **Statutory Determination Period**

*The application should be determined by the 4th June. It will not be approved 'in time' due to the timing of the Committee schedule.*

### **Site Details**

*The site comprises a furniture storage/removals depot located to the rear of Torquay Museum and the Living Waters Church both of which are Grade II listed.*

*It is also within the Torquay Harbour Conservation Area. The site is currently occupied by a large pitched roof single storey storage shed with a 2 storey wing of a similar height. It is of no intrinsic architectural or historic merit and is set in a hard surfaced yard.*

*The site is served by a vehicular access onto Braddons Hill Road East.*

*To the north is a three storey Victorian terrace which backs onto and is set at a higher level than the application site. To the west is a terrace of more modern brick built 2 storey dwellings. To the south of the site are larger Victorian villas set in spacious grounds and, some yards distant, is the rear of the Terrace Car Park. The area is generally a mix of commercial and residential uses.*

*The site is currently tucked from public view; it is set at a lower level than surrounding buildings and along Museum Road the site is bounded by a distinctive random natural stone boundary wall of approximately 2-3 m in height. This is a prominent feature in the streetscape particularly given its relationship to the side elevation of the listed Museum and Pengelly Hall.*

*The site is bound internally on three sides by natural stone walls of varying heights and historic interest.*

### **Detailed Proposals**

*This application is a detailed one for the redevelopment of the site to provide 9, two storey 3 bed dwellings arranged in detached and semi detached forms around a shared courtyard area with parking for 9 cars and with hard and soft landscaping. The existing access from Braddons Hill Road East is to be closed off and a revised access created onto Museum Road by partial demolition and remodelling of the stone boundary wall.*

### **Summary Of Consultation Responses**

*Highways: Do not object to the scheme in principle but consider that as the courtyard serves more than 5 dwellings then the route through the courtyard along with a turning head should be constructed to an adoptable standard. More detail in relation to its construction is therefore required. They also require the provision of a cycle route to Babbacombe Road and the introduction of footway widening to the junction of Babbacombe Road and Museum Road to overcome visibility concerns. Both these are to be provided via a S278 notice.*

*Conservation Officer: Considers the scheme to be acceptable in terms of its relationship to the listed buildings and to the character and appearance of the Conservation area.*

*Arboriculturalist: Has requested amendments to the landscape scheme to include larger and more appropriate specimens to achieve greater visual impact particularly in relation to strategic views into the site.*

*Drainage Engineer: Requires more information regarding the potential for sustainable means of surface water disposal.*

### **Summary Of Representations**

*There have been 6 letters of objection based on the creation of the new access impact of traffic on Museum Road which is considered to be too narrow and congested to cope with the additional traffic; concerns also include the level of car parking provided on site and the partial loss of the stone wall.*

*One letter offers support providing the closure of the existing access is achieved and there is no increase in height of the replacement buildings.*

### **Relevant Planning History**

*P/1991/1066: Construction of 16 flats: Approved 19.09.91*

*P/1987/1810: Construction of 16 flats: Approved 3.12.87.*

### **Principle and Planning Policy -**

*The relevant policies to consider in relation to this scheme are E6 which seeks to retain employment uses unless the site is of limited significance from an employment perspective or its continued use would be harmful to amenity. Also significant are policies H9 and H10 in the Adopted Local Plan which require housing schemes to demonstrate a high standard of design and to respond to key characteristics in the local environment whilst making efficient use of urban land by building at high densities in central locations close to services and public transport.*

*It is also necessary to consider policies BES, BE1 BE5 and BE6 which require good quality design detail and sensitivity to context in terms of the relationship to listed buildings and other heritage assets.*

*The Emerging Local Plan carries similar policies but include specific standards in relation to dwelling and garden size (DE1-DE3)*

*In respect of highway access, congestion and car parking levels, policies T25 and T26 are relevant. Requirements for sustainable drainage are included in the NPPF and the Emerging Local Plan (ER1-ER2).*

*Policy NC5 requires the consideration of possible ecological impacts on bats and birds arising from demolition of the buildings on site. An Ecological Study has identified no impact on wildlife subject to care being taken during demolition in line with the advice in the report and the installation of nesting boxes.*

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

*The key issues are:*

- 1. The principle of the new use and the design quality of the scheme and its*

- impact on the adjacent listed buildings and the wider Conservation Area.*
2. *The suitability of the proposed new access to the site and adequacy of car parking levels.*
  3. *Whether it is necessary to adopt the access road.*
  4. *Drainage proposals to reduce surface water discharge.*

*Each of these will be addressed in turn.*

1. *The principle of the new use and the design quality of the scheme and its impact on the adjacent listed buildings and the wider Conservation Area.*

*The site is currently used for the storage of furniture and as a base for a removals business. The buildings on the site are poor quality and in a sensitive location. It is poorly serviced and it is located close to existing dwellings. It is unlikely that the current storage use would generate sufficient investment to achieve the necessary refurbishment of the site. Therefore the loss of employment land is acceptable as it is of limited significance due to the overall quality of the site, it is a potential 'bad neighbour' and there is a need to generate some investment in the site in view of its relationship to key listed buildings.*

*In terms of design quality, it is necessary to consider the impact of the scheme on its surroundings as well as the internal quality of this courtyard development.*

*The majority of the site is well screened from public view being set within surrounding building groups. There is however sensitivity along Museum Road as the dwellings will be visible above the retained boundary wall and views into the site will be created as a consequence of the new vehicular access. There are also important views of the site from Babbacombe Road framed by the listed Museum and Living Waters Church.*

*Revised plans are awaited which demonstrate that the scheme will be simple but well detailed with the use of natural slate and metal rainwater goods. The use of earth coloured render and complementary weatherboarding will result in a scheme that will sit comfortably with neighbouring buildings. The courtyard will be resurfaced with sets, includes new areas of tree planting and includes good quality boundary treatments to create a shared central courtyard/parking area that is to a high standard of design in terms of quality and finish.*

*As originally submitted, the Museum Road wall was extensively reduced in height but this has since been amended to retain its full height and keep the scale of demolition to the minimum necessary to provide safe vehicular access.*

*The streetscape along Museum Road is particularly attractive, taking in views of the side elevation of the Museum and Pengelly Hall. In this context, the alteration of the existing stone boundary wall is a key issue. Whilst the applicant was initially advised to retain the wall in its entirety and to retain the access to*

*Braddons Hill Road East, this is more of a service access and did not provide the character of approach required.*

*In view of the previous approval for partial demolition of this wall and the lack of highway objection, the applicant was advised that if the wall was repaired (in accordance with a schedule of works), the planting bed along the frontage properly landscaped (it is currently overgrown) and the scale of demolition confined to that essential to providing safe access and egress from the site then consideration could be given to allowing the wall to be breached. This has some amenity benefit for future residents in that it does open up the site in terms of light and views.*

*The limited exposure of the site to public view coupled with the quality of the scheme in terms of both buildings and the courtyard space results in a scheme that is acceptable from a design perspective.*

2. *The suitability of the proposed access to the site and adequacy of car parking levels.*

*There have been 2 previous approvals for redeveloping this site. Both included the provision of 16 flats. The original approval involved a one way system with access from Museum Road and egress from Braddons Hill Road East. The most recent retained use of the existing access.*

*As explained, the alteration to the boundary wall to provide a vehicular access from Museum Road is thought to be acceptable from a conservation perspective. Highways have not raised an objection requiring only the provision of footway widening at the junction of Museum Road and Babbacombe Road to improve visibility. There are therefore very limited grounds to resist the approach favoured by the applicant.*

*It is therefore acceptable from a conservation and highways perspective and it provides an entrance with a more residential character than would be the case if the existing service access were used. The applicant has been asked to provide clarity about the future treatment of the closed off access to ensure that it does not become a neglected space.*

*In terms of parking levels, 9 spaces are provided on site. This is in accordance with policies H10 and T25 of the Adopted Local Plan which encourages reduced levels of car parking on centrally located sites which are close to public transport links. It is also within a short walk of the Terrace Car Park which provides ample public car parking.*

3. *Whether it is necessary to adopt the access road.*

*Highways have commented that as the access road serves more than 5*

*dwellings, it should, in order to comply with the Councils' Highway Design Guide, be constructed to an adoptable standard and it, along with the turning head, become public highway. This would require it to be constructed of tarmac, possibly to a wider dimension which would detract from the visual quality of the courtyard space.*

*This guidance however is not designed to protect highway safety but to avoid problems of lack of maintenance and to 'manage' inconsiderate parking. However, the site is, due to its design, essentially a private courtyard quite separate from the public realm and wider highway network and the applicant is quite clear that the site will be privately maintained by a Management Company. This, coupled with the design concerns indicates that there is no overriding imperative to adopt this route and it would be preferable for its maintenance and management to remain under private control.*

#### *4. Drainage*

*The Councils Drainage Engineer has indicated that the site should not discharge surface water to the combined sewer as suggested on the application form. However, the scheme will involve a reduction in the amount of building coverage and a replacement of the existing tarmac surface with more porous setts. This coupled with landscaped areas, tree planting and grassed areas will result in more surface water being absorbed on site and a net reduction in surface water being discharged to the combined sewer. However, this needs to be evaluated and a drainage statement is needed to confirm this before permission is issued.*

#### **S106/CIL -**

*As a scheme for 9 units 'pooled contributions' such as identified in the Adopted SPD 'Planning Contributions and Affordable Housing' cannot be requested in line with recent changes to government guidance.*

*Any requests for S106 contributions have to be shown to relate specifically to the impact of the development on the immediate area. Highways have specific site related requirements which include provision of footway widening to improve visibility and cycle route which is priced at around £18,000. Waste facilities should also be funded via developer contributions (£450). The scheme relates to family sized dwellings with minimal garden areas. This is likely to lead to greater use of the adjacent Torwood Gardens and it would be appropriate for this scheme to contribute towards any imminent project in relation to this site. Advice is awaited from Natural Services in relation to this and a verbal update will be given at the meeting.*

#### **Conclusions**

*The scheme is considered to be acceptable from a design perspective; the new access does not raise any sustainable concern either from a highway safety or streetscape point of view. Parking levels are considered to be in line with*

*established policies given its central location and proximity to services and public transport.*

*Revised plans are awaited which confirm the use of natural slate and metal rainwater goods, confirm retention of the full height of the wall along Museum Road, includes an amended landscape plan, confirms the use of rendered garden walls in place of timber fences and the use of good quality setts for the Courtyard.*

*A drainage strategy to confirm that the site reduces discharge to the combined sewer is also awaited.*

### **Recommendation**

*On receipt of these and subject to the conclusion of a S106 or Unilateral Undertaking to meet the waste, sustainable transport and possibly greenspace contribution then it is recommended that planning permission should be granted for the development subject to the following conditions.*

- 1. Large scale details of key features.*
- 2. Samples or specification of all external materials.*
- 3. Schedule of works in relation to stone boundary walls within the site and along Museum Road.*
- 4. No further demolition of stone boundary walls beyond that identified in the schedule of works.*
- 5. Detail of modifications to planter fronting Museum Road including sample of stone to be used.*
- 6. Implementation of landscaping scheme.*
- 7. Closure of existing access and appropriate treatment.*
- 8. Provision of nesting boxes and implementation of demolition in line with advice in submitted ecological report.*

### **Relevant Policies**

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