

Application Number

P/2016/0277

Site Address63 Babbacombe Downs Road
St Marychurch
Torquay
TQ1 3LP**Case Officer**

Mr Scott Jones

Ward

St Marychurch

Description

Demolition of existing building. Formation of 14 Apartments with parking and 2 restaurants/cafe (A1, A3, A4 and A5 use categories)

Executive Summary/Key Outcomes

The site is a prominent corner plot off Babbacombe Downs Road at the southeastern end of Babbacombe Downs, close to the Babbacombe Theatre and near to the junction with Beach Road. The site currently holds a heavily extended Victorian Villa, which has three storeys with stucco/rendered walls under a flat roof. The site is in the Babbacombe Downs Conservation Area and is also located in a Core Tourism Investment Area, as identified within the Local Plan.

The application is to demolish the existing building and replace it with a four-storey render and glass building, which will provide 14 apartments and two commercial units. 17 car parking spaces will be provided within an underground parking area served off a new access and there will be 3 visitor parking spaces in front of the building served off the existing corner access point.

To meet key Local Plan policy requirements the proposal must respond to tourism policies TO1 (Tourism, events and culture) and TO2 (Change of use of tourism accommodation and facilities) of the Local Plan, which principally outline support for development that improves and provides new tourism facilities with a focus on Core Tourism Investment Areas.

The proposal must also prove that it sits comfortably in relation to the character of the area in order to maintain or enhance character and appearance of the Babbacombe Downs Conservation Area. It should also protect the setting of any nearby listed buildings, in-line with the aims of Local Plan Policies SS10 and HE1.

In regard to the two central issues highlighted above the proposal is considered inconsistent with the aims and objectives of tourism policies TO1 and TO2.

There will be a loss in terms of holiday accommodation and a diminished provision of commercial floor space that is supportive of tourism activity in the area. It fails to demonstrate that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes.

In regard to design and impact upon heritage assets the application is considered inconsistent with the aims and objectives of Policies SS10 and HE1. The scale and form of development is considered to relate poorly with its surrounds to an extent that presents harm to the character and appearance of the Babbacombe Downs Conservation Area. It is also considered harmful to the setting of the nearby Babbacombe Cliff Grade 2 Listed Building where the proposed building will be prominent in the skyline to the northwest of this building.

There are further areas of concern. The access to the proposed underground parking court is considered inadequate as it fails to achieve the minimum requirement of a 1 in 8 gradient. There is also an absence of geotechnical data that demonstrates that the excavation necessary to achieve the sub-level parking can be achieved. The proposal also presents a poor residential environment for future occupiers in terms of proximity to commercial uses and by presenting inter-looking between certain units. The proposal also fails to demonstrate that the redevelopment will not increase the risk of flooding elsewhere in the context of the wider Critical Drainage Area designation.

Recommendation

It is recommended that the application is refused due to the loss of holiday accommodation and the diminished provision of commercial floor space supportive of the tourism character, in what is a Core Tourism Investment Area, for the harm it causes to the character and appearance of the Babbacombe Downs Conservation Area and the setting of the Babbacombe Cliff Listed building, for the poor residential environment proposed in terms of potential conflict between uses, poor outlook and arrangement between certain units, and due to the unsatisfactory access to the underground parking and uncertainty that the level of excavation necessary can be achieved. The proposal also fails to provide certainty that there would be no increase in the risk of flooding in the absence of detail in this regard.

Statutory Determination Period

As a major application this has a 13 week determination period expiring on the 23rd June 2016.

Site Details

The site is 63 Babbacombe Road, which is a prominent corner plot on the southeastern end of Babbacombe Downs with views over the Downs, the Babbacombe Theatre and the junction With Beach Road. The building has previously commercially operated as "Churchills" and "Wilsons".

The site currently holds a single, relatively large, three-storey building with rendered walls under a flat parapet roof. Elevations are broken up by render bands and windows and doors are largely framed with contrasting quoin detailing and prominent cills, which adds interest. The window stock in the two public facing elevations is largely Upvc sliding sash with casement windows predominant in the secondary elevations. There is an area of hardstand that provides parking spaces to the front of the building aside some outdoor terraced areas.

The site sits in the Babbacombe Downs Conservation Area and is identified as a key building and part of an important building group within the Babbacombe Downs Conservation Area Appraisal. The site sits in part of the conservation area that is generally characterised by detached seaside villas which front Babbacombe Downs Road that are mostly hotels. The site is also in a designated Core Tourism Investment Area, as identified within the Torbay Local Plan (2012-2030).

The lawful use of the building is considered to be a bar/restaurant with holiday accommodation in the uppermost floor. The application states that the buildings current use is a restaurant cafe bar and residential (3 units).

Detailed Proposals

This application is an outline proposal to demolish the existing building and provide 14 apartments, parking and two commercial units for A1/A3/A4/A5 use purposes (retail/restaurant or cafe /drinking establishment/hot food take-away).

The outline application seeks to fix access, appearance, layout and scale, with only landscaping a reserved matter.

The proposed building is four storeys plus an underground parking level. The building height will be approximately 12 metres and the form of the proposal will be somewhat modern, with large elements of glazing within the two principal elevations that front the highway. The walls will be rendered, which is more evident on the secondary elevations where there is less glazing, and there will be hipped roof elements providing visual breaks between floors. There is a small degree of stepping-back as the building rises, which creates some balcony space for the apartments.

The ground floor layout shows the provision of two commercial units with outdoor terrace areas fronting Babbacombe Downs and one three-bed residential flat. Also at ground floor three visitor parking spaces are also provided off the existing access near to the corner of the site. The first floor layout shows the provision of six flats, each with two bedrooms. The second floor details four flats, of which two are two-beds and two are three-beds. The third (uppermost) floor details the provision of three flats, two of which are two-beds and one being a three-bed unit. The floor areas of the residential units are between 66 and 110 square

metres and the commercial units are each approximately 150 square metres in size.

A new vehicular access is proposed from the east with ramped access down to an underground parking court that shows 16 car parking spaces and one garage space.

There is no external amenity space proposed within the curtilage of the building.

Summary Of Consultation Responses

Conservation and Design Team: Recommend refusal. The eastern end of Babbacombe Downs Road is characterised by 2-storey buildings, as is the southern return to Babbacombe Road. The current building is notable but not overly intrusive despite its third storey and its form links the building to its neighbours. The proposal is considered an overlarge, ill-massed, structure of alien material that does not relate to the character of the conservation area. The current building is recoverable.

Historic England: Do not support the proposal. The current building has been subject to additions that have increased its mass and weakened its architectural form, however it still forms a positive contribution to the reinforcing the local uniformity of as a detached rendered villa. The proposal will present a significant increase to the massing of the building that is out of place with the context, whilst the design approach conflicts with the character of buildings in the area. The proposal will present harm, having an adverse effect on the character and appearance of the conservation area. At present clear and convincing justification for the loss of the building has not been provided. Recommend that the applicant seeks further advice from a Design Review Panel who could provide guidance on how to best develop a scheme to reflect the existing character in a contemporary fashion.

Drainage Manager: As Torbay is a Critical Drainage Area the applicant must investigate the ability to provide soakaways and only when conditions are unsuitable should the surface water be drained to a Public Sewer. If soakaways cannot be achieved discharge to a Public Sewer at a controlled Greenfield rate for the 1 in 10 year storm event, with attenuation to cater for the 1 in 100 year storm event, must be achieved. Detail on the above is absent and must be achieved before the grant of permission.

Community Protection Officer: Concern is raised in regard to residential amenity in terms of conflict between commercial and residential uses.

Strategic Policy and Transport (incorporating Highways): The proposal could generate significant amounts of movement. More information is required in regard to the existing and proposed traffic generation, assessment of access arrangements, more detail on cycle storage, electrical charging etc, and where

there are opportunities to enhance walking and cycling facilities. Recommend a Transport Statement proportionate to the scale of development is necessary in order to consider the scheme. In regard to employment and tourism the site is in a Core Tourism Investment Area and an assessment of the effect on these is should be provided. In regard to the underground parking the access should be no less than 1 in 8 and have a minimum clearance of 2m (6'6"). Consideration should be given to the need to ventilate this area.

Police Liaison Officer: Comments provided on design elements.

Natural England: The Babbacombe SSSI does not represent a constraint in determining the application as the application will not, as submitted, damage or destroy the interest features for which the SSSI has been notified.

Building Control Officer: Building regulations may have implications upon the internal layout.

Environment Agency: Consultation response awaited.

Summary Of Representations

Five letters of objection have been received which raise concerns about introducing a residential block within a key corner site within a key tourism area, the lack of evidence to support the notion that the current tourism use is not viable, impact on the highway network and pedestrians, inadequate parking for the mix of uses, poor design that is unreflective of the character of the area and harmful to the Downs, overdevelopment of the site, and the precedent it would set for similar large scale redevelopment along the Downs. These have been sent electronically for Members consideration.

Relevant Planning History

P/1992/0525: Alterations And Use Of Ground Floor As Public House, First Floor As Public Restaurant And Second Floor As 7 Holiday Letting Bedrooms (As Revised By Plans Dated 27/05/92 And Letter Dated 28/05/92) - Approved with condition for upper floor hotel bedroom accommodation use.

P/1992/0904: Change Of Use At Second Floor Level From 7 Hotel Bedrooms To Lettable Holiday Accommodation Containing 3 Bedrooms And Shared Facilities - Approved at appeal with condition that the residential accommodation shall only be used for holiday purposes.

Key Issues/Material Considerations

The key issues are;

1. tourism impact,
2. the impact on the character and appearance of the Conservation Area and the setting of nearby listed building/s,
3. the quality of the residential accommodation to be provided,
4. the impact on neighbour amenity
5. drainage and flood risk, and
6. Travel, parking and movement

Each will be addressed in turn.

1. Tourism Impact

The application site is located within a Core Tourism Investment Area (as designated within the Torbay Local Plan) and policies TO1 and TO2 of the Local Plan apply.

Policy TO1 outlines that the Council wishes to see the quality of tourist accommodation improved within Torbay with a wider range of new and refurbished facilities and services and that such aims should be achieved through (in part) the retention and improvement of high quality tourism and leisure accommodation in sustainable and accessible locations. There is a particular focus on Core Tourism Investment Areas. The policy seeks to maintain and enhance the most important tourism areas, the Core Tourism Investment Areas, with the intention to ensure the retention and improvement of sufficient high quality accommodation and attractions in order to provide a critical mass needed by a premier resort.

Policy TO2 states that there will be a presumption that the tourism role of premises should be retained and enhanced commensurate with their contribution to the area's tourism offer. It furthers that the change of use of accommodation or facilities to non-holiday uses will only be permitted where such accommodation lacks an appropriate range of facilities and scope for improvement, and where it can be demonstrated that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes.

It is also relevant to note that the 'Turning the Tide' Tourism Strategy 2010-2015 identifies Babbacombe as having specific appeal and it proposes that Babbacombe is seen as a sub destination that currently and will continue to strengthen the English Riviera brand.

The application site is located directly off Babbacombe Downs Road on a prominent corner plot with a direct frontage over Babbacombe Downs and the coast. It sits as part of wider frontage development to Babbacombe Downs that has an overriding holiday character in a unique location. Properties in the vicinity of area are predominantly in tourist uses and the area retains it's distinctive tourism character. The building has historically operated as a hotel with bar and

restaurant facilities although the application cites that the current use of the building is a mix of restaurant/cafe/bar and residential. In the absence of evidence to the contrary, the lawful use of the building is considered to be commercial restaurant/pub use and holiday accommodation over. The planning history supports this assumption with no pertinent history since two applications were submitted in 1992 for restaurant/pub and holiday accommodation use. It is noted that there is anecdotal evidence online through trip advisor that some form of holiday occupancy operated in the building as recently as 2010, which is relevant.

Considering the points above, the lawful use of the building is considered one of a restaurant and bar with holiday accommodation on the upper floor and the tourism impact of the proposal is considered in this context.

In the context of the above it is considered that the proposal would reduce holiday facilities and remove holiday accommodation in the Core Tourism Investment Area. This is considered contrary to policies TO1 and TO2 of the Torbay Local Plan. The planning history indicates that 7 holiday bedrooms were approved in the building in 1992 and a subsequent application for the conversion of the second floor to from 7 hotel bedrooms to holiday accommodation containing 3 bedrooms and shared facilities was approved at appeal. The inspector cited that the works to provide this accommodation were complete when considered. The submitted floor plans indicate that there are currently 3 residential units of accommodation arranged within the second floor and part of the first floor, which is not aligned with either application. The proposal would result in the loss of 396m² of commercial floorspace within the building. Currently the majority of the floorspace of the building provides facilities that contribute to the tourist character of the area. The proposal would result in the provision of two commercial units at ground floor level and the remaining floorspace being used for residential purposes, which would significantly reduce the contribution from this property to the vibrant tourist character of the area.

Policy TO1 seeks to focus on Core Tourism Investment Areas as areas to seek the retention, improvement and creation of high quality tourism facilities and accommodation. The proposal reduces the provision of commercial floor space supportive of the holiday area and presents a loss of holiday accommodation and replaces it with non-holiday accommodation. Both of these trends are considered inconsistent with the aims and objectives of Policy TO1 which seeks development that strengthens rather than weakens the holiday offer with Core Tourism Investment Areas.

Policy TO2 outlines that the conversion of holiday accommodation or facilities to non-holiday uses will only be permitted where it lacks the appropriate range of facilities and where it can be demonstrated that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes. The application has not demonstrated that a tourism use could not be provided

on the site, which is well positioned in a unique location in an area that has a well-established holiday character.

Tourism is an important industry in Torbay which makes a significant contribution to the local economy. The Council has reviewed its policy on protecting the tourist character of the resort in recent years. The Council's strategy is to focus on the need to retain and enhance good quality modern facilities in order to maintain the area's status as a premier resort. . Through the designation of Babbacombe Downs as a core tourism area the Council has identified this area as being important to the resort and an area where there will be a particular focus on the retention, improvement and creation of new, high quality tourism and leisure attractions, facilities and accommodation.

In line with the comments above it is considered that the application conflicts with Policies TO1 and TO2 of the Local Plan with regard to loss/weakening of tourist facilities and accommodation within a Core Tourism Investment Area.

2. Impact on the Character of the Babbacombe Downs Conservation Area and setting of nearby listed building/s

In terms of policy guidance the following national and local policies are relevant.

Paragraph 131 of the National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 132 of the NPPF states that great weight should be given to a heritage asset's conservation and that as heritage assets are irreplaceable any harm or loss should require clear and convincing justification.

And Paragraph 137 cites that Local Planning Authorities should look for opportunities to enhance or better reveal the significance of heritage assets.

At a local level policy SS10 (Conservation and the historic environment) and HE1 (Listed buildings) of the Torbay Local Plan (2012-2030) seeks to support proposals that enhance heritage assets or their setting.

In terms of context the Babbacombe Downs Conservation Area Appraisal describes that most buildings within the conservation area remain unlisted but very many have qualities that merit attention, either by virtue of their group value or their architectural detail or key components. It goes on that the majority are situated on Babbacombe Downs Road (Para 4.1.4). The appraisal document also mentions the handsome stucco or rendered frontages are a feature of

Babbacombe Downs Road (Para 4.2.1) and the predominant building material (Para 4.3.1). The Downs development is also mentioned within Section 6 (The setting and features of special importance) where it is mentioned that the development facing the sea, much of which remains significantly unaltered, with overall frontage detail, special arrangement and roof profiles mentioned.

The proposed building is not considered to respect the overall character and appearance of the conservation area and thus conflicts with the policy guidance above. The reasons for this are outlined below.

The proposed building will utilise a loosely similar footprint to the existing (heavily extended) building however there is an outward extension of these two principal building lines towards the public realm. This enlargement of the footprint, with only a limited extent of upper floor recession through the building, will result in a significant increase in the mass of the building. The existing building presents a principal eastern flank to Babbacombe Downs Road that is 11m deep and set approximately 9m in from the edge of the plot (this excludes the single storey ground floor flat roofed function room that extends to the near edge of plot). This established principal flank end (that is 9m from edge of plot) sits uniformly with the wider established building line that includes the buildings from the south and currently offers some visual relief to the corner which is prominent in the locality. The additional bulk and proximity to the edge of plot will be detrimental upon the visual amenities of the area. In regard to the main northern frontage again the proposed building encroaches forward where the building is 5-6m wider than existing. The additional length and depth of the building, in the form proposed, will present a significant increase in the mass of building on the site, presenting a far more dominant building on the plot that relates poorly to the established pattern and character of the townscape.

In regard to the building's design the two principal outward facing elevations are largely glazed with floors delineated by small hipped canopy elements and in places small recessions to the building line. The elevations that do not directly front the public realm contain less glazing and the rendered wall element becomes more apparent. The accompanying design and access statement states that the building is seeking to be a landmark building with its own distinctive and prestigious character. As previously detailed the conservation area appraisal highlighted that development along Babbacombe Downs retains a pleasant character that by virtue of the grouping is self-reinforcing, and that there is a predominant building form and materials. The design approach is considered to conflict with the character of buildings in the area and is considered to present non contextual development that responds poorly to the constraints of the area.

By virtue of the increase in massing of the building and its form, which is of a contemporary design that does not respond to the context, the proposal is considered harmful to the character and appearance of the Babbacombe Downs

Conservation Area.

In addition to the above the proposed building, which will sit prominently in the skyline on higher land to the northwest of the Babbacombe Cliff, a Grade 2 Listed Building off Beach Road, it is considered harmful to the setting of this listed building.

It is noted that Historic England has objected to the proposed development on the basis of the significant increase to the massing of the building and a conflict of the design approach with the established character of the area. HE have assessed the proposal and concluded that it will result in harm to the heritage asset by reason of an adverse effect on the character and appearance of the conservation area.

The proposal, which increases the mass of building on the plot which contains a heavily extended Victorian Villa, also fails to respond to Policy TO2 of the Local Plan, which states that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form and where appropriate reinstate amenity space lost through overdevelopment as a holiday use. Para 6.1.2.20 furthers that in cases it may be appropriate to replace with a more in-keeping buildings however it cannot be assumed that a like-for-like replacement will be acceptable if the site has been overdeveloped. The proposal, which actually increase the size and mass of building on the plot, fails to respond to the guidance contained within Policy TO2 in regard to responding to the context of a Villa plot where there would have been spacious and open setting for the original building.

By virtue of the above the proposal is considered contrary to Local Plan Policies SS10, HE1, DE1 and TO2 of the Local Plan. The proposal is also considered inconsistent with national guidance (NPPF) as it fails to promote and reinforce local distinctiveness and respond to the historic environment (para 60-61), and fails to take the opportunity to enhance or better reveal the significance of the heritage asset (para 137). It is also considered to conflict with the premise that any harm to a heritage asset should have clear and convincing justification as heritage assets are irreplaceable (para 132).

3. Quality Of residential accommodation to be provided

The Local Plan includes detailed requirements in relation to the quality of residential schemes in terms of amenity, layout and space standards. Policy DE3 (Development amenity) seeks that all development should be designed to provide a good level of amenity for future residents or occupiers.

The scheme provides for 14 new 2 and 3 bed apartments on the site, along with commercial floor space. One apartment will sit at ground floor adjacent to the commercial floor space. The remaining 13 apartments will sit above on the upper three floors.

Due to the lack of space around the building, the amenity space that is provided is almost exclusively in the form of small balconies and terraces. There is however good access to the Downs in terms of nearby public open space.

The internal space and living environments are generally satisfactory in terms of general living space and natural light to rooms and outlooks. There is however concern in regard to the quality of the residential environment where apartments on the southern side of the building will have habitable rooms with single aspects across a narrow courtyard. This is likely to present inter-looking at close proximity and an undesirable living environment where windows are likely to be permanently obscured with blinds or curtains to retain privacy, which in turn impacts the quality of the internal space by removing any foreseeable outlook or natural lighting for occupants.

There is also concern in regard to introducing an arrangement where residential units sit aside and above the commercial units proposed, in terms of the potential for noise nuisance and general disturbance. Babbacombe Downs is a relatively busy tourism environment, particularly in the summer, and the frontage is lined commercial drinking and eating establishments at ground floor. The introduction of residential units is considered likely to present a conflict with these established uses and the proposed units within the ground floor of this scheme, in terms of general noise and disturbance from operations and use. This conflict is unlikely to exist, certainly to such an extent, where there is holiday occupancy in situ rather than non-holiday residency, due to the temporary nature of occupancy and also the expectancy of some degree of noise and activity whilst staying in such a location.

Having considered the context the residential environment is considered contrary to policy DE3, due to the likely conflict between the proposed and existing commercial operations, and the relationship between certain apartments in terms of inter-looking creating a poor outlook for rooms. The proposal is considered contrary to Policy DE3.

4. Impact on the amenity of adjacent occupiers

Local Plan Policy DE3 also outlines that development should not unduly impact upon the amenity of neighbouring and surrounding uses. Such impacts are considered below.

The adjacent property to the south currently benefits from an L-shaped garden along its frontage which returns back into the site towards a secondary building line, close to the joint boundary with the application site. This area and the rooms set off it benefit from a relatively open aspect as the adjacent built form within the boundary of the application site is contained to single storey. The proposal will replace this single storey element with a four storey building in close proximity to the joint boundary. The impact in the amenity space and the adjacent rooms is likely to be demonstrable in terms of loss of light, outlook, and

also to a degree privacy from the associated outdoor terrace areas.

The proposal is considered harmful to the amenity of the neighbouring use to the south due to the reasons above, contrary to Local Plan Policy DE3.

5. Drainage and flood risk

The majority of land in Torbay has been designated a Critical Drainage Area (CDA) by the Environment Agency. New Local Plan Policies align with the CDA designation and the sensitivity of surface water management within Torbay and detail that development must maintain or enhance the prevailing water flow on-site. Policy ER2 iterates that all development should minimise the generation of increased run-off and outlines a drainage hierarchy.

Detailed drainage proposals must now form part of planning application submissions accordingly. These should investigate the practicality of sustainable drainage systems as a first priority, by undertaking infiltration testing of ground conditions on the site.

In this case the application states that the development will connect to the Public Sewer.

No further information or justification is provided why infiltration testing has not been carried out and how the proposal responds to the drainage hierarchy outlined within the Local Plan.

Therefore, officers consider that insufficient information has been provided to demonstrate that the proposal will not result in additional flood risk elsewhere.

The application should therefore be refused in accordance with Policy ER1 and ER2 of the new Local Plan, and paragraphs 102 and 103 of the NPPF.

6. Highways, parking and access

The proposal seeks to provide 17 car parking spaces within an underground car parking court from a new access formed off the southeastern border, supplemented by 3 ground floor car parking spaces for visitors, close to the corner of the site from the existing entry point.

The proposal is not accompanied by a transport statement that addresses the existing and proposed levels of traffic generation and any resultant impact upon the nearby road network.

Firstly in terms of the parking geotechnical information has not been submitted that provides certainty on whether the level of excavation necessary to provide the parking is achievable. In addition the detailed access down to this area is close to 1 in 6 which is below the minimum acceptable gradient that Highways consider acceptable, which is 1 in 8. Both of these elements may have

implications on the building height and/or the actual ability to provide any such parking.

If the parking court is physically achievable the provision of 20 spaces for 14 units appears commensurate with the expectations of Local Plan Policy TA3 and the accompanying Appendix G, which sets out parking requirement guidelines. Notwithstanding this the absence of a transport statement provides an absence of understanding as to the requirements for servicing the commercial units and any impact upon the highway network and highway safety. It is noted that there is presently hardstand to the front that appears capable of servicing the commercial element of development on site and this capability appears removed in the proposed scheme.

The absence of certainty in this matter is considered to present development that is contrary to Policies TA2, TA3 and Appendix G of the Local Plan.

S106/CIL -

As proposal fails on wider issues, discussions with respect to planning obligations have not been progressed. The lack of appropriate planning obligations should be included as a reason for refusal because it is contrary to Policy SS7 (Infrastructure, phasing and delivery of development).

Precise details of obligations which would be required for an acceptable scheme in this location are awaited and will be reported in full to committee but may include:

Greenspace & Recreation
Sustainable Transport
Waste Management
Lifelong learning

A scheme for 14 units on brownfield land does not trigger any affordable housing requirement.

Conclusions

In conclusion, the application site is located within a core tourism area as designated by the Torbay Local Plan 2012-2030. It is within an area that has a distinctive tourist character which is reinforced by its attractive setting with wide ranging sea views and location adjacent to Babbacombe Downs. The use of the property for commercial purposes with holiday flats makes an important contribution to the vitality and character of the area. The applicant has not demonstrated in the submission that the site lacks an appropriate range of facilities and that there is no reasonable prospect of it being used for tourism purposes, as required by Policy TO2 of the Local Plan.

It is recommended that the application be refused for its failure to maintain or

enhance the provision of tourism facilities or accommodation on what is a prominent site within a Core Tourism Investment Area, the harm it causes to the character and appearance of the Babbacombe Downs Conservation Area and the setting of a listed building, the poor residential environment it proposes, the inadequate vehicular access, and uncertainty over the geotechnical aspects, potential flood risk, and lack of planning obligations to mitigate the effect of the development on local infrastructure.

Recommendation:

Refuse.

Condition(s)/Reason(s)

01. The proposal would result in the loss of holiday accommodation and a reduced provision of commercial floorspace and facilities supportive of the holiday character within a prominent site in a Core Tourism Investment Area. It also fails to demonstrate that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes. For these reasons the proposal does not maintain or enhance the area designated for its tourism importance and is contrary to policy TO1 and TO2 of the Torbay Local Plan 2012-2030.

02. The proposal, due to the massing and form, which is of a contemporary design that is not considered to respond to context, is considered harmful to the character and appearance of the Babbacombe Downs Conservation Area, contrary to Policy SS10 and DE1 of the Local Plan. The proposal, by virtue of its location where it would sit prominently in the skyline on higher land to the northwest of the Babbacombe Cliff, a Grade 2 Listed Building off Beach Road, is also considered harmful to the setting of this listed building, contrary to Local Plan Policy HE1. The proposal is also considered inconsistent with national guidance (NPPF) as it fails to promote and reinforce local distinctiveness and respond to the historic environment (para 60-61), and fails to take the opportunity to enhance or better reveal the significance of the heritage asset (para 137). It is also considered to conflict with the premise that any harm to a heritage asset should have clear and convincing justification as heritage assets are irreplaceable (para 132).

03. The proposal, due to the proximity of residential units to potentially noise-generating commercial units, the arrangement of residential units where there is the potential for inter-looking at close proximity through windows, where the proximity of the building would create overshadowing and a poor outlook for the adjacent occupiers and users of the Coombe Court Hotel (Number 67 Babbacombe Downs Road), is considered to create a poor residential environment and impact local amenity, contrary to Policies DE3 of the Local Plan.

04. The proposal, due to the inadequate access to the underground parking that fails to meet the maximum gradient requirement of 1 in 8, in the absence of detail that prohibits due understanding and consideration of the highway safety implications of the new access, due to the likely loss of on-street parking to facilitate the proposed access and associated visibility, and in the absence of geotechnical detail that determines that the necessary level of excavation to achieve the underground level is achievable, is considered unacceptable on highway and parking grounds, contrary to Policies TA2 and TA3 of the Local Plan.

05. The proposal fails to demonstrate that it will not result in an increased risk of flooding within a Critical Drainage Area with an absence of information and justification as to why infiltration testing and the provision of a sustainable surface water drainage system has not been explored. Therefore, the proposal does not accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030, or paragraphs 102 and 103 of the NPPF.

06. In the absence of any signed legal agreement or upfront payment under Section 106 of the Town and Country Act 1990 (as amended), the scheme fails to satisfy the objectives of Local Plan Policy SS7 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" and the associated "Update 3 Paper", which seek to secure the delivery of physical, social and community infrastructure directly related to the development and necessary to make it acceptable in spatial planning terms. In the absence of secured contributions in line with the adopted policy the proposal is therefore contrary to Policy SS7 of the Torbay Local Plan 2012-2030 and guidance outlined within paragraphs 203 and 204 of the National Planning Policy Framework.

Relevant Policies

TO1 - Tourism, events and culture
TO2 - Change of use of tourism accommodation
DE1 - Design
DE3 - Development Amenity
SS10 - Conservation and Historic Environment
HE1 - Listed Buildings
ER1 - Flood Risk
TA2 - Development access
TA3 - Parking requirements
SS7 - Infrastructure, phasing and employment