

Application Number

P/2016/0188

Site Address

Land West Of Brixham Road, Paignton

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park (proposal/description amended 5 April 2016)

Executive Summary/Key Outcomes

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071 for the dwelling houses. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of dwelling houses complete.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west of the site is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

The proposals are a provision of the section 106 agreement secured at outline stage. The sports pavilion and public open space must be completed prior to the occupation of the 250th dwelling. The proposal is for a full size senior FA 3G football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x 18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The proposal includes parking provision and some landscaping. It is understood that the proposals will be managed by South Devon College.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. It is considered that insufficient information has been submitted to demonstrate that the development (particularly the floodlighting) can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and

materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

Recommendation

Refusal, reasons for refusal are set out at the end of the report

Statutory Determination Period

13 weeks, an extension of time to determine the application has been agreed up to the 19th August 2016.

Site Details

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071 for the dwelling houses. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of dwelling houses complete and occupied.

The application site is to the south of industrial units on Long Road and west of the proposed residential development associated with application references P/2011/0197 and P/2013/1229. To the south and west is open countryside. To the south of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the southern boundary.

Detailed Proposals

The proposal is for a full size senior FA 3G football pitch 120m x 80m with 4.5m high perimeter fencing, one open tarmac MUGA court 37m x 18.5m, for community use, one secure polymeric surface 37m x 18.5m with controlled use and a new sports pavilion. The site area is approximately 4.2 hectares. The sports pavilion is single storey and features a shallow pitched roof. The sports pavilion has a floor area of approximately 550sqm. The proposal includes parking provision and some landscaping.

Summary Of Consultation Responses

Arboricultural Officer:

The proposed trees lack the potential mature height and spread required to screen the proposal. The tree species selected are of only limited internal benefit and in the example of the Japanese maple, will struggle to establish and achieve any stature greater than that of a large shrub. This is amplified by the open topography of the site amongst the wider field systems. Tree numbers are low

given the size of the site and increased density is necessary with attention given to important boundaries where screening will be required from residential areas.

The scheme is suitable for approval on arboricultural merit subject to the proposed tree species being substituted for species capable of attaining a height and spread significant enough to effectively screen the proposal and are suitable given the character of the surrounding area, increased numbers of trees across the site and hedge/ tree protective fencing plan to be submitted prior to any commencement on site that is based upon an arboricultural survey in accordance with BS5837.

No additional information has been submitted in relation to the comments above however a letter of justification was provided to which the Arboricultural Officer responded as follows:

"The letter makes comments addressing the arboricultural concerns with the hedge management being covered by the management proposed in the outline proposal for the White rock development; however it does not address specific tree protective fencing for the existing hedgerow. Screening is addressed by reference to the single storey height of the building and MUGA and thus it is suggested that the proposed landscaping is sufficient to screen. However the species suggested do not reliably exceed the height of the proposed building and are incapable of attaining a sufficient scale to be the dominant landscape feature of the proposal site. Therefore the landscaping is insufficient to prevent the proposal from having a negative impact on the South Hams AONB."

Senior Strategy and Project Officer:

The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would come to a greater number of spaces if the external space was taken into account. There is concern about parking spilling out onto surrounding residential streets. A Transport Statement has not been submitted to justify the proposed parking level. Given that there could be a significant impact on the area, it is considered reasonable to request a Transport Statement, and a Travel Plan to maximise the use of sustainable transport.

Irrespective of the above, a minimum of 4 spaces or 10% of spaces should be provided as spaces for disable persons (to dimensions of 4.8m x3.6m, or where side by side 4.8x2.4 with a minimum of 1.2m between them). Appendix F of the Torbay Local Plan also states that all new development should include provision for electric charging points and their necessary infrastructure.

The application is within the LEMP (Policy SS9.3) and close to the boundary with South Hams. Therefore the impact of the development, lighting etc on the landscape and biodiversity will need careful consideration. It is acknowledged that this may impact upon parking provision, but this does not obviate the need

for the parking provision to be justified.

Paragraph 8.1.3 (p58) of the Transport Assessment indicates that the trip rate has not been calculated for the pavilion building, which will primarily serve the new community within the masterplan area, and that community events will take place at weekends and evenings outside peak travelling times. Whilst this is good from a junction capacity point of view, it could mean that parking may spill over onto the streets at a time when there are a lot of cars parked already, albeit only at match times.

The Adopted Local Plan seeks 1 parking space per 25 sq m of floor space. Whilst this would not be applied to the MUGAs and the 3G pitch, provision should be made, particularly for the 3G pitch. The detailed plan shows covered seating for 50 spectators and 160 standing spaces. In addition, the teams on the pitch could amount to up to around 75 people at team cross-over times.

On this basis, there would appear to be a shortfall in parking. The applicant should justify the parking level proposed and see whether alternative solutions can be found such as provision of overspill car parking (e.g. at South Devon College). In any event it would be preferable to encourage greater use of walking, cycling and public transport as an alternative to requiring the provision of hundreds of car parking spaces. A Travel Plan would be a way of encouraging this, and is directly related to the reserved matters.

It is noted that there may be some sensitivity with the LEMP and landscape impact (especially given that the pitch will be floodlit), which is another reason why demand management is more likely to be an acceptable solution than providing car parking up to the required standard.

Provision should also be made for cycle parking. This would be part of the travel plan measures noted above.

In response to the revised plans submitted the Senior Strategy and Project Officer noted the following:

"I am happy that the revised plans make provision for electrical charging points, cycle provision and increased disabled parking. The disabled spaces should be a minimum of 4.8m x3.6m as per Appendix F of the Local Plan. It would also be appropriate to get details of the 6 secure cycle spaces, either now or through a condition. However I am pleased that these changes have been made, which improve the proposal.

Turning to parking provision. It is accepted that the parking slightly exceeds the requirement for the building floorspace. The Local Plan sets no standard for pitch area, but it is reasonable in the context of Policy TA3 to ensure that there are not severe problems with parking overspilling into residential areas during high

demand times. Conversely it is accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. It would therefore make sense to seek to ensure that alternative provision can be made for overspill parking at the College. Peak demand for the sports pitches will be evenings and weekends when the college's car park is likely to be less used."

Police Architectural Liaison Officer:

Opportunities to design out crime, antisocial behaviour (ASB) and conflict have been considered and incorporated into the layout and design of the proposal. Having carried out a basic crime pattern analysis, specifically for Sports Pavilions, it is advised that theft and criminal damage are the most reported offences, as such it is recommended that the Sports Pavilion is constructed to comply with the standards and specifications of Secured by Design to ensure a consistent level of security throughout and opportunities for criminal activity and misuse or abuse of the facilities are minimised.

The proposed 4.5m fencing will assist well in securely enclosing the site preventing unauthorised access and the type of fencing will enable good surveillance opportunities in to the spaces.

It is recommended the pedestrian access to the right side of the Pavilion is made inaccessible to prevent providing those with criminal intent a legitimate excuse for access the building and changing rooms. The gated accesses into the MUGAs must be capable of being locked when not in use.

There should be no access to the left of the Pavilion or the space is left as open to view as possible to prevent creating a concealed area as this can provide cover for doors and windows to be tampered with. Any trees here should not be positioned so they can be used as climbing aids up onto the roof and the proposed choice of trees should have trunks that are clear of foliage (approx 2m) to enhance surveillance into the space.

The outside storage container for equipment is noted. Initial generous storage provision should help to avoid future need for additional outbuildings which can be more vulnerable to attack.

Care should be taken with regard to landscaping/planting so as to not restrict natural surveillance, create hiding places for those with criminal intent, impede CCTV (if applicable).

Please be mindful that if there is to be CCTV it must be accompanied by compatible lighting as come the hours of darkness the CCTV system will not be fit for purpose.

The parking area will need to have good natural surveillance from both the road and buildings beyond and ideally be lit to assist residents and deter vehicle

crime.

Preventative measures should be put in place to prevent anti social driving/behaviour in the open space of the car park when premises are closed. Consideration should be given for a gate/barrier to be fitted to the car park entrance for use when the premises are closed or the open space is broken down by introducing obstacles, for example one or two speed bumps, planters, low level hedging or kerbing as this will effectively reduce the amount of open space vehicles need to gain speed and drive anti socially.

Vehicle access onto grassed areas should be prevented by use of bollards are some form of solid structure

External illumination of the facilities may draw local attention at night. The lighting will need to be coordinated with actual occupation and use to avoid unwanted attention at times when there are no users or 'capable guardians' present.

Bollards to the front of the Pavilion must be capable of stopping a vehicle making contact with the building.

Secure motorcycle and bicycle parking should be provided and located within view of active areas e.g. reception. This area should be roofed and lit.

Care should be taken to not inadvertently design in climbing aids, such as trees, bollards, sills, bins, benches etc as these can provide access on to the roof to vents/roof lights or over into the grounds.

To control access and deter unwanted trespassers there should be only one main access and egress into the building and through to the MUGAS.

All doors, windows and locks should meet the standards of specifications of Secured by Design.

Storage and security of valuables and personal belongings will require special consideration. Lockers must be open to view and not hidden away to deter anyone wishing to tamper with the lockers

Cubicles and changing rooms should be designed to prevent voyeurism or the use of a mirror or similar to look over or under cubicle walls.

It is recommended that spectators are provided their own WC facilities to prevent providing a legitimate excuse for those with criminal intent easy and open access into the changing rooms where personal belongings and clothes can be left.

It may be worth considering an additional corridor door that can be used to prevent open access to the team and official changing rooms on match days.

Green Infrastructure Co-ordinator:

There are serious concerns in relation to the proposed floodlighting and impacts on bats, including Greater Horseshoe Bats which are known to be very light sensitive. Further information on levels of predicted illuminance and light spill, shown by appropriate isolines, is required prior to determination to ensure that bat flight corridors can be maintained through/around the development site in accordance with the Habitats Regulations Assessment undertaken for the outline application.

It should be noted that the Lighting Assessment submitted as part of the outline application (attached) stated that no floodlighting would be provided: "The lighting requirements for the Public Park and open spaces should be minimal as they will be used primarily during daylight hours. Although some of these spaces will contain play areas (and within the central elevated area, a sports pitch and youth play area is proposed, it is unlikely that they will be used during the hours of darkness so lighting will not be required. Floodlighting for the playing pitch on elevated ground would result in a significant negative visual and has been discounted on this ground."

The Ecology Addendum to the Environmental Statement submitted as part of the outline application also makes reference to sensitive use of lighting in paragraphs 6.6-6.12. The landscape and visual impacts of floodlighting need to be considered, particularly with regard to impacts on the nearby Area of Outstanding Natural Beauty. The Council's Arboricultural Officer and Urban Design Officer (Landscape) should be consulted with regard to the suitability of the landscape proposals. There is no plan showing the context of the proposals in relation to the wider development proposals and the relationship with the adjacent development including allotments, orchards and housing needs to be shown on a plan. Notwithstanding the further detail requested above, the following would need to be secured by planning condition or provided prior to determination of the reserved matters application:

Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement. The CEMP could be part of a wider CEMP covering the whole development site. The CEMP should be produced in accordance with clause 10.2 of BS 42020:2013 and should include full details of all ecological mitigation proposed during construction.

An informative would be required noting that the development must be carried out in strict accordance with both the on and off site LEMPs. It should be noted that Torbay Council is currently in discussion with Linden Homes regarding progress with the LEMP works. Further conditions may be required following the review of the additional information requested above.

Summary: The application is not suitable for approval until further details regarding lighting have been provided and acceptability discussed and agreed

with the Council's Ecological Adviser and Natural England. Relevant Council officers should be consulted with regard to landscape proposals and landscape and visual impact. A plan showing the context of the development in relation to wider development proposals is required. Notwithstanding the further details required, preliminary recommendations are made for conditions and informatives.

Natural England:

Greater horseshoe bats are among the rarest and most threatened bats in Europe. During the last 100 years, numbers have declined significantly throughout northern Europe. South Devon represents an international stronghold for the species supporting the largest recorded roost in northern Europe. The proposed development site falls within a greater horseshoe bat sustenance zone² associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone² and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony.

The proposals to include floodlighting are a departure from the approved outline application. Our previous supporting advice, and the conclusions of the Habitats Regulations Assessment carried out by the authority, were based upon the details provided with the outline application. The outline application included greater horseshoe bat mitigation measures surrounding the proposed sports pitch/play areas, included the retention and enhancement of hedges, and planting of new hedgerows. The Environmental Statement (February 2011, Final Issue) states that "No floodlighting of sports pitches will be used; play areas will not be lit..." The latest proposals include the provision of floodlighting. Where there is a material change to the approved outline application, it will be necessary for your authority to carry out a Habitats Regulations Assessment in advance of reaching a decision regarding this application.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you obtain the following information to help undertake a Habitats Regulations Assessment:

An updated lighting strategy to ensure that light spillage parameters are set in advance of reaching a decision. Typically, detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows) is thought to be associated with Lux levels of 0.5 and above.

The assessment of light impact is best informed by identifying all potential sources of light (in this instance floodlights) and combining this information as part of a Lux analysis. All potential sources of light will require appropriate mitigation to prevent impact upon the greater horseshoe bat.

Assessment of potential light impacts at both construction and operational phases is often best informed by a suitably qualified lighting designer and ecologist.

To assess light impacts upon greater horseshoe bat habitat from the proposed development, it will assist to provide contour mapping (0.1lux intervals or less) that represents the lux modelling results (including vertical plane, and sample intervals of 200mm) on an OS map backdrop, and that can be used in conjunction with greater horseshoe bat habitat maps.

From the information available Natural England is unable to advise on the potential significance of impacts on South Devon Area of Outstanding Natural Beauty (AONB). It is therefore advise that advice is sought from the AONB Partnership / AONB Conservation Board. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able advise on whether the development accords with the aims and policies set out in the AONB management plan. The addition of floodlighting in a prominent location has the potential to adversely affect the AONB, and was a reason for their exclusion at outline application stage.

Ecological Consultant:

The application cannot be determined until a full lighting assessment for the proposed flood lighting of the sports pitches is received. A HRA Screening Assessment cannot be conducted until such an assessment is provided.

The HRAs prepared for the outline application (dated February 2012 and September 2012) contain copies of application drawings showing proposed new hedgerow planting (Ecosulis Nov 2011) and the offsite landscape buffer planting (Stride Treglown). Together, these drawings show new planting intended immediately adjacent to the proposed sport pitches.

It is understood that the proposed offsite landscape planting only commenced during the winter 2015/2016. This appears to be significantly late, since it should have occurred in the first planting season after the commencement of Phase I development.

It is not clear whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) there is concern about the applicant's commitment to necessary mitigation. Since the provision of flood lighting is a departure from the outline application, it appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

It is also understood that there is a commitment to provide a new bespoke bat roost in Peter's Copse. Outline proposals were submitted as part of the original application based on designs for lesser horseshoe bats (see attached Ecosulis Figure 7 White Rock Ecological Enhancements). In light of the delay with provision of landscape mitigation it is considered an appropriate time to seek the submission of detailed proposals (both in terms of design and location) for this roost.

In light of failures to implement works in accordance with approved timescales etc, an 'update report' on ecological mitigation works carried out to date and those still remaining to be implemented should be requested. Following this, it is recommended that a site visit take place to inspect both finished works and the locations for remaining further works.

In response to these comments the applicants stated that to reduce any light spillage from the flood lighting they would implement the use of baffles. The Ecological Consultant then provided the following additional comments:

"I have sought advice from one of my lighting engineer contacts that has considerable experience of schemes where lighting may have an adverse effect on greater horseshoe bats.

While it is true that many baffles and shields cannot be easily modelled in lighting software, this is often more common for sports lighting and often manufacturers are able to provide this info. e.g. Abacus Lighting can provide modelling data (photometrics) for their backshields on sports lights. Also, depending on the style of the shield it is sometimes possible to crudely model it as an object within the lighting software to give an indication of its effect.

It will certainly not be acceptable to rely on the approach outlined in [the agent's] email to you dated 13th June. If lighting is to be first installed before the baffles are then retrofitted, this would mean we would have no prior knowledge of the likely outcome until light levels were measured post installation. This is not acceptable.

If no information is available from the manufacturers and the lighting consultant

feel unable to model the effects (questionable) then the lighting will need to be modelled without the baffles fitted, so we have an idea of worst case scenario. We will then know the reduction in light spill in metres needed for the scheme to be acceptable. We would then need evidence to indicate the extent to which the baffles are likely to reduce light spill. For instance, as a guide an Abacus light shield on a sports light mounted at 15m high, results in a 10-15% reduction in the light spill. At the moment, we have no idea whether light spill with the baffles will be less or more than this. Baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch.

Furthermore, baffles are unlikely to provide a sharp cut-off of light spill, especially when considering levels down to 0.5 lux, due to the high levels of illuminance required on the sports pitch. So how achievable the reduction in light spill is depends on how close the proposed dark areas are to the pitch. So we also need this information.

I would also ask again for a response from the applicant to the concerns raised in my email dated 28th April, which stated:

I do not know whether the proposed hedgerow that would run down the western boundary of the flood lit sports pitches has been planted - and it is not shown on the landscaping proposals for the Sports Pavilion. We need this information.

In light of the above tardiness over landscape buffer planting and the uncertainty over the provision of other landscape mitigation (e.g. hedgerow planting) I am concerned about the applicant's commitment to necessary mitigation. Also, since the provision of flood lighting is a departure from the outline application, it appears that there is at least a break in consistency and continuity from the original outline application and these recent proposals for the Sport Pavilion.

In view of the applicants failure to implement necessary greater horseshoe mitigation to agreed timetables, I have no faith in non binding statements from Mr Chick stating that his lighting consultant "once the baffles are in place on the floodlights he is confident this would as good as remove the necessary amount of light illuminance to mitigate impacts on the surrounding bat runs".

Drainage:

No drainage details have been submitted to allow a comment to be made.

Sport England:

Sport England seeks to ensure the new sports facilities are fit for purpose. Given the nature of the proposal, Sport England has sought the views of the FA, who advise:

- a. Four player changing rooms are indicated and it is assumed two will be for the 3G FTP and should have a clear changing area excluding showers and wc's of 18m² and not 16m² as drawn. The layouts of the two rooms to the left with direct access to the pitch are fine apart from the area. 16m² is fine for community use but 18m² would be required for the league use.
- b. Two officials changing rooms are provided and are fine. There may need to be a corridor door provided, which can be locked on match times separating the player official changing area from the other changing and public access. The internal arrangement of the gymnasium changing room may need adjusting to move the access door to the other side of a corridor door position.
- c. Spectator wc's are not provided separate from the player changing area. Unless the spectators can use the wc's of one of the other changing rooms they would need to be provided.

The primary purpose of this development is to deliver community sport and as such Sport England would wish to see this intention consolidated by way of a Community Use Agreement.

Subject to the satisfactory establishment of a Community Use Agreement through a condition of approval, Sport England is satisfied that the changing facility will deliver benefits to community sport.

This being the case, Sport England offers its support for this provision of the Sports Pavilion, as it is considered to meet the Objective regarding new provision.

In respect of the proposed artificial grass pitch (AGP) Sport England's comments are as follows:

It is Sport England's understanding that the proposed playing pitch (artificial grass pitch 3G) is proposed as part of the housing s106. It is to be provided to meet the policy needs of providing open space, sport and recreation in new housing developments. This proposal appears to have a new angle with the College now seeking to develop this playing pitch proposal for the College students with community access. The natural turf playing pitch/open space area in the s106 is to be superseded by the provision of an artificial grass pitch (3G) with sports lighting and fencing.

The current proposal for a significant intensive use sports facility may affect the Council's (to be adopted shortly) Playing Pitch Strategy which identifies a strategic need for an artificial grass pitch (3G) at Clennon Valley depending upon design, access and management. This proposed 'pitch' design appears to be 'work in progress'. It is shown as to be large enough for competitive rugby but no firm commitment to deliver that specification needed - World Cup 22. It is misleading within the paperwork to say that this pitch can be used for cricket. In

the main, it will be an artificial grass pitch to deliver football - training and competition play providing it is designed and maintained to meet FIFA/FA requirements. If no rugby use is planned to meet World Cup 22 standards, the pitch size may be reduced to a football size. See planning condition below. Given the original requirement of a playing pitch to meet needs of the new residents, we would strongly encourage the development and to be secured by planning condition, a community use agreement that develops sport for the end user including the College and community. This community use condition should be extended to include the proposed AGP and MUGAs.

Sport England has contacted both The FA and RFU for their comments.

The FA advise that the pitch size at present is big enough to accommodate a Rugby size compliant 3G. All relevant information is being sent to RLF from the College, RLF will then assess the reports and surveys carried out to date and make recommendations on what further surveys and drawings are required. The College are in the position to progress with a rugby size and IRB 22/world rugby compliant pitch that can also meet the requirements for Step 6 football. But it is likely that they will seek to submit an addendum to the LPA and work up a detailed design for a step 6 football compliant 3G stadia pitch.

The FA has suggested two sets of conditions.

In principle the FA support the application, there is the knowledge that further information is to be submitted to ensure the pitch is compliant for Step 6 football.

The RFU advise that they are supportive of this proposal at White Rock and are exploring the strategic benefits this development could bring to Rugby Union in the Torbay area. Currently there are no artificial surfaces in the locality that are designed and built to achieve World Rugby Regulation 22, which provides an opportunity for the operator. The RFU is aware that this site has strong strategic importance for the Football Association and this could provide a challenge for the RFU to invest into the site due to the high football demand. There are three community rugby clubs within the area that could potentially access and use the facility if capacity levels allowed, all having strong junior sections. These sites within the Torbay PPS are classified as being over capacity, and two are shared sites with cricket. If appropriate community usage can be agreed and profiled, the RFU will continue to explore the feasibility of supporting this site.

The MUGA's design should reflect the end usage/operation and management. For example, if predominantly for tennis, it should be designed with LTA guidance. If more a general space for numerous activities the design will move away from those needed for specific sports. It is noted that both will have sports lighting with one having a tarmac surface, the other a polymeric. This may help with providing opportunities for netball and football training.

In summary, Sport England generally supports the application as new sports facilities are proposed which should have positive sports benefits for the College and wider community (to be secured by planning condition). But raise comments around the pavilion design, the strategic need for a 3G AGP in this location and the proposed design specification of the AGP 3G.

Summary Of Representations

3 representations have been received. Issues raised:

- o One representation of support
- o Detrimental impact on Greater Horseshoe Bat habitat
- o Detrimental impact on the AONB
- o Concern that it is appropriate to make a decision on an application that does not reflect the outline permission in terms of the inclusion of a lighting scheme

Relevant Planning History

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m² A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development APPROVED

P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 APPROVED

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 PENDING CONSIDERATION subject to the outcome of this application

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development - THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 DO NOT MAKE PROVISION FOR PUBLIC COMMENT ON REQUESTS FOR SCREENING/SCOPING OPINIONS EIA NOT REQUIRED

P/2015/1126 Approval of appearance, landscaping, layout and scale in relation to 216 dwellings and associated development REFUSED 13.04.2016

P/2016/0094 Erection of 42 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) PENDING CONSIDERATION

(Variation of condition P1 of P/2014/0071)

Key Issues/Material Considerations

The key issues to consider are the principle of development, appearance, impact on the AONB, landscaping, biodiversity, drainage parking and residential amenity.

Principle:

Outline consent has been granted for the mixed use development of the site. This application was approved subject to extensive consultation and was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. The principle of development in this location was established by this application and the position and scale of the proposal is in accordance with the indicative layout agreed at outline stage.

Policy SC2 of the Torbay Local Plan supports the provision of sports facilities to serve additional demand generated by the wider development. Sport England support the development subject to the inclusion of conditions as noted in their response.

Appearance, Scale and Layout:

Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions". Consistent with these paragraphs, policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials, whether they protect local and longer distance views and the impact on the skyline especially from public vantage points, having regard to the location and prominence of the site and whether they positively enhance the built environment.

Within the Design and Access Statement submitted at outline stage it stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to

elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.' In addition the outline application was supported by an LVIA, which noted that as a result of the assessment of the predicted landscape and visual effects significant adverse effects were identified. In response to this assessment, mitigation measures were identified. One of the mitigation measures identified stated that 'the pavilion building would be designed to look like an agricultural building with timber cladding'.

The design of the sports pavilion has been revised during the course of the application. The amended design omitted a parapet wall design in lieu of a fascia and soffit, changed the wall material from timber cladding and render to facing brick and metal cladding, changed the window materials from powder coated aluminium to white upvc and raised the roof pitch from flat to 5 degrees. The previous design adopted high quality materials and whilst there was an element of render this was positioned fronting on to the car park rather than the wider countryside. The amended design does not reflect the principles of the Design and Access Statement submitted at outline stage nor is it considered to represent high quality design as required by paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan. In addition no evidence has been submitted to justify a change in materials away from that noted at outline stage. The change in materials away from those detailed at outline stage particularly in terms of the wall materials has the potential to impact upon the character and appearance of the wider countryside and views from the nearby AONB.

In line with the above, the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment and therefore is considered contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030. Revised plans are however expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

Landscaping and Impact on the AONB and Surrounding Countryside:

Paragraph 115 of the National Planning Policy Framework states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection. Whilst the site lies outside of the South Devon Area of Outstanding Natural Beauty (AONB) it is located such that it is visible from the AONB. The application site is noted in the Torbay Landscape Character Area Assessment as being of Type 1, Rolling Farmland as specified on Figure 1. The Assessment states that much of this land is open to views from the AONB to the west and the south and that there is limited potential to accommodate change without substantial wider impact. It also noted that mitigation of any proposed development changes should be achieved through a combination of careful siting with strong screen

planting and the reinforcement of existing field hedgerow boundaries. This type of mitigation was proposed at outline stage with a Landscape and Ecological Management Plan being secured to provide offsite landscaped buffers however it is noted that this does not appear to have been provided in line with agreed phasing plans nor is some of this landscaping shown on the submitted plans.

Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The Environmental Statement and associated Lighting Assessment submitted at outline stage stated that floodlighting for the playing pitch on elevated ground would result in a significant negative visual impact and has been discounted on this ground. The South Devon AONB Office have been consulted on the application but have not provided a response. However the information submitted at outline stage confirmed that the use of lighting would have a negative visual impact which justified its exclusion at outline stage. No further information has been submitted with the application to demonstrate that the proposed floodlighting would not result in adverse light spill and sky glow that can be seen from surrounding areas to the detriment of the landscape character of the area particularly the appearance and character of the AONB.

The proposed landscaping within the site is considered insufficient and would not effectively screen the proposal from wider views. In line with the comments from the Council's Arboricultural Officer, the proposed landscaping would not reliably exceed the height of the proposed building and would be incapable of attaining a sufficient scale to be the dominant landscape feature of the site. As noted above 'strong screen planting' is required to help mitigate the impact of any development in this location, and whilst strategic planting around the application site will help somewhat, additional landscaping within the site would be required to help assimilate the development with its surroundings, particularly in views from the AONB. This was supported by the Design and Access Statement submitted at outline stage which stated that 'given the elevated nature of the part of the site upon which the pavilion building is proposed, the building will be single storey with careful attention given to elevation treatment and roofing materials. It is possible that this building could have a green roof, and with landscaping around it, this would further support the potential for it to be embedded into its setting.'

In line with the above insufficient information has been submitted to demonstrate that there will be no adverse effect on the AONB and surrounding landscapes and therefore the proposal is considered to be contrary to paragraph 115 of the National Planning Policy Framework and policy SS8 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting.

Biodiversity:

Paragraph 118 of the National Planning Policy Framework states that in terms of

biodiversity, if significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. It is also clear within the National Planning Policy Framework that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Habitats Directive is being considered, planned or determined which is the case with this application. Similar objectives are detailed within policy SS8, Natural Environment and NC1, Nature Conservation.

The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. Contrary to the information submitted at outline stage, flood lighting is proposed to serve the sports pitches. Whilst there was no condition on the outline consent preventing the inclusion of external lighting, the application was determined on the basis of the information submitted which noted that no floodlighting would be provided to the sports pitches due to harmful visual impacts and impacts upon protected species. Natural England note that the permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony and no information has been submitted with the application to demonstrate that the proposed floodlighting would not have a detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows).

In line with consultee advice, insufficient information has been submitted in relation to light spillage (a lux analysis, mitigation measures, contour mapping etc). Natural England has confirmed that a Habitat Regulations Assessment will be required in advance of any decision being made by the Council. Based on the level of information submitted, it is considered likely that the results of this assessment will detail that the development is likely to result in a significant adverse effect and therefore should be refused. Paragraph 62 of the Habitats Regulations sets out the steps required should the appropriate assessment conclude the proposed development will adversely affect the integrity of the European site. This sets out that there must be consideration of alternatives to the proposal and if there are no alternatives, permission can only be granted if there are exceptional circumstances and the development is in the public interest. This is similarly set out within paragraph 118 of the NPPF. No details of alternative sites have been put forward within the application submission and whilst undoubtedly there will be some social benefits resulting from the use of the site by the community and the nearby College, proposed visitor numbers have not been submitted to support such a justification.

In line with the above insufficient information has been submitted to date to demonstrate that there will be no likely significant effect on the Berry Head South Hams Special Area of Conservation and therefore the proposal is considered to

be contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above, the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, a Construction and Ecological Management Plan would be required by a condition of approval. At the time of writing this report the HRA screening has not been carried out, further information is awaited from the agent to inform the screening of the development. The application cannot be determined positively until a HRA screening and where necessary and appropriate assessment is carried out.

Residential Amenity:

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown at outline stage. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution. The proposed building is single storey and positioned approximately 22m from the dwellings to the east such that the proposals are not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing. Contrary to the information submitted at outline stage, floodlighting is proposed to serve the sports pitches. The proposed floodlighting has the potential to detrimentally impact neighbouring residential amenity however no details have been provided regarding proposed light levels to determine this with any certainty. There is also the potential for the proposal to have a noise impact and as such were the proposal to be considered acceptable a condition restricting the hours of use would be imposed.

In line with the above insufficient information has been submitted to demonstrate that there will be no detrimental impact in terms of neighbouring residential amenity and therefore the proposal is considered to be contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030. Additional information is expected in order to resolve the issues outlined above; the Committee will be updated on this information and officer considerations at the Committee Meeting. Were the proposals to be considered acceptable, it is likely that limitations on the number of evenings a week that the outdoor pitches could be used and the hours of use would be required by condition.

Drainage:

Surface water drainage methods were agreed at outline application stage. However the Council's Drainage Engineer has requested confirmation that the proposals reflect the agreed drainage design and this information is expected shortly. The Members will be updated on this at the Committee Meeting.

Parking:

The application shows parking for around 36 cars, plus 4 minibus bays. The Local Plan sets a parking standard of 1 space per 25 sq m, which would require a greater number of spaces if the external space were to be taken into account. The Local Plan sets no parking standard for pitch area, but it is considered reasonable within the context of policy TA3 of the Torbay Local Plan to ensure that there are not severe problems with parking over spilling into residential areas during high demand times. However on balance it is also accepted that it is not in the interests of sustainability to demand large areas of parking that will only be occasionally used. In light of this were the application considered suitable for approval, a condition requiring the submission of travel plan would be imposed in order to maximise the use of sustainable transport and detail measures for over spill car parking.

The plans submitted include annotations to show provision for electrical charging points, cycle provision and disabled parking. The submitted plans, however, do not show parking spaces of a sufficient scale to accommodate a disabled parking space. Revised plans would be required to show that such spaces could be provided in line with policy TA3 and associated appendix F. Were the application to be approved, a condition requiring details of the 6 secure cycle spaces would be required.

Conclusions

It is considered that insufficient information has been submitted to demonstrate that the development can be implemented without harm to neighbouring residential amenity, the character of the open countryside, area of outstanding natural beauty and the South Hams Special Area of Conservation. In addition the proposal, by reason of its form and materials, is not considered to represent good quality design nor would it enhance the built environment. In line with the above the proposal would be contrary to paragraph 17, 64, 115 and 118 of the National Planning Policy Framework and policies DE1, SS8, NC1 and C4 of the Torbay Local Plan 2012-2030.

Condition(s)/Reason(s)

01. Insufficient information has been submitted to demonstrate that there will be no likely significant effect on the South Hams Special Area of Conservation and contrary to paragraph 118 of the National Planning Policy Framework and policies SS8 and NC1 of the Torbay Local Plan 2012-2030.

02. Insufficient information has been submitted to demonstrate that there will be no detrimental impact on the South Devon Area of Outstanding Natural Beauty or wider countryside and contrary paragraph 109 and 115 of the National Planning Policy Framework and policies SS8 and C4 of the Torbay Local Plan 2012-2030.
03. By reason of its form and materials, the proposal is not considered to represent good quality design nor would it enhance the built environment contrary to paragraph 17 and 64 of the National Planning Policy Framework and policy DE1 of the Torbay Local Plan 2012-2030.
04. Insufficient information has been submitted to demonstrate that there will be no detrimental impact on neighbouring residential amenity by reason of light nuisance contrary to paragraph 17 of the National Planning Policy Framework and policy DE3 of the Torbay Local Plan 2012-2030.

Relevant Policies

- SS8 - Natural Environment
- SC2 - Sport, leisure and recreation
- NC1LFS - Biodiversity and Geodiversity
- C4 - Trees, hedgerows and natural landscape
- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management
- SS11 - Sustainable Communities Strategy
- TA3 - Parking requirements
- TA1 - Transport and accessibility