

Application Number

P/2016/0880

Site AddressLand Off Woodview Road & Torbay
Business Park
Paignton
TQ4 7HP**Case Officer**

Carly Perkins

Ward

Blatchcombe

Description

Erection of Class B2 industrial building of 6,000 sqm floor space to include parking, external lighting, hardstanding and circulation space (proposal / description amended 8 September 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. Subsequent reserved matters applications were approved under references P/2013/1009, P/2013/1229 and P/2014/0071 for the dwelling houses and two industrial units. Two industrial units associated with the original outline consent have been constructed under approved reserved matters application P/2013/1009. 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 west and west of the existing industrial units on Woodview Road. The site is separated from proposed residential units associated with application references P/2011/0197 and P/2013/1229 by the proposed ridge top park as part of the wider plans for the Whiterock site. To the south and west of the site is open countryside and the South Devon AONB. The site is not located within the AONB, but is close to it. To the north and south west of the site are areas of woodland associated with Shopdown Copse and St Peters Copse (identified as Other Sites of Wildlife Interest and an Unconfirmed Wildlife Site within the Torbay Local Plan 2012-2030). To the west of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the western boundary. The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. The site is also situated within a Mineral Safeguarding Area.

The application is for full planning permission and is not submitted pursuant to the previous outline consent. Whilst the proposal is a new full application, the principle of industrial development in this location was established by the outline consent (now expired) and this remains a material consideration with significant weight. The provision of employment uses in this location continues to be supported by current Local Plan policies.

The proposal is for the erection of a 6,000sqm industrial building. The building is to be used as a manufacturing unit which is a general industrial B2 use. The proposed building is two storey, with the second storey of accommodation being accommodated by a mezzanine floor. To the north and east of the proposed building is an area of hardstanding providing 120 parking spaces. 18 cycle parking spaces are proposed and access to the site is via Woodview Road.

It is intended that 45 existing members of staff will be relocated to the proposed premises from an existing location within the South Hams with an additional 55 jobs being created over a three year period. The creation of new employment opportunities is fundamental to regeneration of Torbay and supports the aspiration of achieving a step change in prosperity.

The principle of industrial use on this site remains acceptable. However the form, design and lighting has the potential to cause adverse impacts upon the wider landscape including the setting of the South Devon AONB and South Hams Special Area of Conservation. The site is environmentally sensitive due to its location at the western edge of the White Rock development, and its location within the sustenance zone of the South Hams SAC. It should be noted that an objection to the application as submitted has been received from Natural England. Further information and revised plans are required in order to demonstrate that the impacts of the proposed development in terms of visual effect on the landscape and ecology can be mitigated. Revised plans are also required to include the provision of an unimpeded footpath and additional information is required to demonstrate an acceptable surface water drainage strategy.

Recommendation:

Conditional approval subject to submission of a Habitats Regulation Assessment that concludes the proposed development would not have a likely significant effect on the South Hams SAC, the submission of revised plans to show an unimpeded footway, a revised building design and a revised landscaping scheme taking into account the recommendations of the submitted ecology surveys and the submission of additional information in relation to surface water drainage. Final drafting of conditions to be delegated to the Head of Spatial Planning.

Statutory Determination Period:

13 weeks which expires on 5th October.

Site Details:

The application site relates to the western bowl of the wider White Rock site and is an undeveloped agricultural greenfield site. Two industrial units associated with the original outline consent have been constructed under approved reserved matters application P/2013/1009 and 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 west and west of the existing industrial units on Woodview Road. The site is separated from proposed residential units associated with application references P/2011/0197 and P/2013/1229 by the proposed ridge top park as part of the wider plans for the Whiterock site. To the south and west of the site is open countryside and the South Devon AONB. To the north and south west of the site are areas of woodland associated with Shopdown Copse and St Peters Copse (identified as Other Sites of Wildlife Interest and an Unconfirmed Wildlife Site within the Torbay Local Plan 2012-2030). To the west of the site, offsite planting works are proposed as part of the original outline application P/2011/0197 adjacent to the western boundary. The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. The site is also situated within a Mineral Safeguarding Area.

Detailed Proposals:

The application is for full planning permission and is not submitted pursuant to the outline consent.

The proposal is for the erection of a 6,000sqm industrial building. The building is to be used as a manufacturing unit which is a general industrial B2 use. The proposed building is two storey, with the second storey of accommodation being accommodated by a mezzanine floor. To the north and east of the proposed building is an area of hardstanding providing 120 parking spaces. 18 cycle parking spaces are proposed.

The proposed building would be finished in blue, white silver and grey galvanised steel and smooth composite cladding with blue engineering brickwork plinths. The elevation to the west was considered to be the most sensitive and would therefore have a simpler and more recessive appearance. Windows and doors would be blue powder coated aluminium.

It is proposed to retain existing hedges on the site and to provide new tree planting.

Access to the site would be from Woodview Road.

Summary of Consultation Responses:

Torbay Development Agency: The Torbay Development Agency supports the proposal.

Landscape Officer: The proposed development is likely to have a neutral to minor adverse effects on landscape when perceived from high ground within the South Devon AONB and an adverse effect upon the area lower lying parts of the South Devon AONB around St Gabriel and Aish. In order to mitigate the adverse landscaping effects the following has been recommended:

- Screening or partially screening the building with a woodland belt – this would need to be bold and in keeping with the bold woodland belts to the north and south.
- Remodelling the building form to give the outward appearance of being a group of buildings.
- Rendering the building elevations in a way that breaks up, camouflages the structure and makes it recessive
- Remodelling the ground profile to the west of the building, producing a mound that screens the lower elevations of the building and elevates the new woodland planting. This would need to be bold and relate the scale of the building.
- External lighting needs to be designed sensitively to ensure that light pollution does not adversely affect the relative tranquility of South Devon AONB. This could consider use of planting and landform to screen lighting and possibly remodeling the building layout to contain the parking areas (as well as the loading areas) and to conceal lighting behind the building.

Green Infrastructure Co-ordinator: The site is located within the sustenance zone associated with Greater Horseshoe Bats (GHB) from the Sharkham Point to Berry Head component of the South Hams SAC. Torbay Council will therefore need to undertake a Habitats Regulations Assessment (HRA) Screening prior to determination to consider whether there are any Likely Significant Effects in relation to Greater Horseshoe Bats associated with the South Hams SAC. This should be able to be informed by the HRA for outline application (P/2011/0197) but it is considered that a new assessment is required for this full application.

The Council's HRA Adviser and Natural England should be consulted regarding the application and will be able to advise whether sufficient information has been submitted to allow the HRA Screening Assessment to be carried out, specifically in relation to lighting. It is noted that lighting information has been submitted with the application but there is no accompanying explanation of the results in relation to impacts on greater horseshoe bats.

It is understood that the Landscape Officer at Teignbridge District Council and the South Devon AONB unit have been consulted with regard to the landscape and visual impacts of the proposed development. This is welcomed, particularly since it is noted that that this full application is a departure from the outline proposals, which stated that to restrict visual impact, the building in this location *“is intended to take the form of a traditional agricultural cluster, set within the landscape. It is proposed to be single storey with a small two storey element”*.

The Preliminary Environmental Appraisal (PEA) does not provide a detailed assessment of the potential ecological impacts and proposed mitigation for the proposed development. It is recommended that the PEA is updated to provide further detail about proposed impacts and mitigation e.g. proposed numbers and locations of bird and bat roosting features (including locations shown on elevation plans), landscape plan to incorporate recommendations for additional planting including night-scented species and fruit and nut bearing species, plans showing locations of other mitigation such as new habitat for reptiles and refuges for other small mammals.

The table in section 4 states that *“Hedgerows will be retained on site to maintain opportunities for dormouse”*. However the outline proposals (see attached) show that the hedgerow to the south-east of the proposed building is to be removed with a new hedgerow planted. The PEA needs to make clear how much hedgerow (if any) will be required to be removed through this application and how this will be mitigated for.

Although the PEA states that *“A sensitive lighting scheme will be implemented on the site, to include directional lighting away from retained trees and green corridors. Light levels should not increase by more than 0.5 lux as a result of the development”*, there is no acknowledgement that a lighting scheme has been designed for the site and explanation of what the assessment shows. It would be useful if this could be included.

The report states in a number of places that *“the masterplan for the wider White Rock site has included enhancements and mitigation to ensure that a net gain for ecology is provided on the site”*. This is correct, however, back in April the Council’s Ecological Adviser expressed concerns with regard to progress on the offsite landscape planting and the applicant’s commitment to necessary mitigation. He requested submission of detailed proposals (both design and location) for the bespoke greater horseshoe bat roost in Peter’s Copse and also an update report on ecological mitigation works carried out to date and those still remaining to be implemented. This information has not yet been received and it is suggested that it should be provided prior to the determination of any further applications on the site.

Notwithstanding the further information required, the following would need to be secured by planning condition:

- a. Submission of a Construction Environmental Management Plan (CEMP) for approval by Torbay Council prior to commencement. 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, including but not limited to: results of pre-commencement badger and reptile surveys and any proposed mitigation; details of lighting during construction and details of timing and precautionary working methods to avoid impacts on protected and notable species.
- b. Requirement for the development to be carried out in strict accordance with both the on and off site LEMPs approved under the outline permission. In particular, new woodland planting to the west of the proposed building between Shopdown Copse and Peter's Copse, was secured through the outline planning application and will need to be delivered.
- c. Further conditions are likely to be required following the review of additional information requested.

Further comments based on submission of reptile survey and landscaping plan:

It had previously been advised that a CEMP be secured and submitted for approval prior to commencement, and the precautionary working methods in respect of reptiles would need to be included within this.

The report makes the following recommendations in paragraph 4.4 'it is recommended areas of open ground should be provided which can be located to the north and west of the warehouse and can be enhanced to provide habitat for reptiles. This should include reseeding with a wildflower seed mix and allowing the areas to achieve a varied sward length to provide suitable marginal habitat for reptiles. Enhancements should also include the provision of dead-wood or rubble piles as hibernacula.' This does not reflect what is shown on the current landscape plan, and that the ecologist has input into this plan to ensure that all proposed ecological mitigation is shown.

It is recommended that details of on-going management of the landscape and ecological features is secured through an addendum to the on-site LEMP. I would also advise that the new woodland planting (secured through the outline application) to join Shopdown and Peter's Copse be shown on the landscape plan to provide context.

Arboricultural Officer: There are no arboricultural constraints within the site, with constraints only arising from surrounding hedges and woodland in terms of root growth which is likely to have grown unrestricted into the open field. To establish rooting extent and hence constraint upon layout there is a need to update the tree survey (root protection areas are calculated upon stem diameter

which will have altered). The outline consent for the Masterplan required early woodland planting to link Shopdown and Peters copse, this has not occurred as yet. Clarity upon the replacement of the hedgerow to be removed is lacking, which is important in ecological and varied arboricultural merits. The massing of the building is likely to be visible to a number of view receptors and any screening planting proposed will be likely to need a minimum period of 10 years to achieve any significant screening benefit. The non planting of the woodland noted in 4 has adversely affected the screening of the unit, which appears to be larger and of different materials than indicated at outline stage, hence amplifying the need for this work. To ensure successful establishment and longevity of final approved woodland planting and internal landscaping the LEMP approved as part of the original permission should be undertaken in its entirety within the next available planting season. This should be borne in mind when the detailed landscaping plan is submitted. To ensure rapid establishment of species selected for the important screening a detailed report of soil improvement in terms of structure, texture, nutrient requirements, suitability for soil Ph and so on should be undertaken by a qualified agronomist, and linked to the landscape plan.

Further comments based on submission of landscaping plan and tree report update:

The new tree report discusses the requirement for tree protection and avoidance of construction within root protection areas of the trees bounding the site. Unusually it is not supported by a plan. Study of the Site Landscape Plan 2303 17 Sept' 2016 indicates that car parking is proposed into what may be root protection areas. Without an accurate plan to prove or disprove this it is not possible to provide any recommendation of support. Any plan produced should include a detailed method statement of special construction techniques if ingress into RPAs cannot be avoided due to site constrains and tree protection measures. The same landscape plan omits any detail of the required phased woodland planting, which given earlier comments is a matter of importance, attention is drawn for the need for an agronomy report to ensure rapid and long term screening planting. Species selection to woodland edges should be varied to field maple, native birches or hawthorn which will not compete with established trees and from a more positive relationship with the new site usage.

Further comments based on submission of amended tree report update:

The tree report, page 20 contains a plan entitled Tree Constraints Plan Ref 377 Dated 10-10. It is not known if this is an updated version given the absence of the year prefix from the date, however it is noted that the Tree Protection Plan is dated Sept 2016. Peters Copse (the main arboricultural constraint) is noted as W66 in the tree report however its details are not recorded in the data table which would ordinarily be used to inform a revised tree constraints plan (i.e. the extent of the root spread in accordance with BS.5837:2012, which would then in turn inform layout). P12. of the report notes the presence of ancient and notable

trees recorded by the Ancient Tree Hunt titled TX, Natural Environment Services have no knowledge of such trees, and it would be helpful if the applicant could seek clarity as to whether this is a carry through from a previous report template. It is not possible to say with certainty whether or not the proposed car parking to the building will have an adverse effect upon W66 Peters Copse, given the points noted above.

Senior Strategy and Project Officer: The Planning Statement by PCL Planning indicates that the traffic generation for the additional floorspace has been taken into account in the overall development of the Western Bowl element of the wider White Rock scheme (P/2011/0197/MOA and P/2013/1009/RM). In any event, the mitigation applied to 6,000 sq m floorspace would obviate any wider sustainable transport contributions.

It is considered that the proposals could be a significant generator of traffic and that a Travel Plan should be required to encourage walking, cycling and public transport by staff, and minimise peak time commercial vehicle movements. The Travel Plan/Freight Management Plan should also minimise the use of the lanes westwards of the junction with Long Road (i.e. commercial vehicles should be routed to the Western Corridor). A s278 Agreement for a traffic management on the lanes hasn't been requested because of the considerations in the above paragraph, but consider that it should be addressed through the Travel Plan. This can be addressed through planning condition.

The Council's Highways Design Guide indicates that industrial roads should be built to a 30mph design speed, with a minimum width of 6.7m and 2m footway on both sites or 3m if shared pedestrian/cycle way, with adequate turning. The application plans show a 6m carriageway and single 2m footpath, which is below the standard in the Highways Design Guide. The footpath is not ideal as it runs into the on-road parking immediately to the east of the current site. Ideally a footpath should be provided on both sites of the road; however a single footpath on the south of the access road may be more practical.

An unimpeded footway access to the site should be provided. A footway on the south of the road may be more practicable. There will need to be some lined pedestrian priority on the site itself.

The application indicates a cycle store. In accordance with the Local Plan, 1 space per 2 employees should be provided as covered secure space. This would be for a minimum of 22 cycles, based on the application form indicating 45 FTE employees.

Further comments based on submission of transport statement:

The transport statement by WYG assess that the overall traffic impact is within the allowance of the earlier application. On this basis there is no objection to the

overall highway impact. As the unit will be a B2 use, there is a need for an unbroken footpath linking to the completed part of Woodview Road. Although the Highways Design Guide indicates two footpaths, a single footpath would be acceptable.

Ideally 22 cycle spaces should be provided on site, 4 more than the 18 currently proposed. However, subject to the submission of a travel plan (as required by suggested conditions), the provision of covered and secure cycle spaces, and an indication on the layout plan of where additional cycle spaces could be provided (if shown necessary via implementation of the travel plan), there is no objection to the proposal on this issue." A Travel Plan will be required to maximise walking, cycling and public transport and minimising rat running through Yalberton.

Police Architectural Liaison Officer: It is recommended an appropriate monitored CCTV and alarm system is installed to form part of the overall security package. Lighting for the site must be compatible to work with the CCTV system. The proposed bollard lighting for the cycle storage may prove inadequate in assisting users during the hours of darkness as the limited light they do spill is easily hindered and does not project the right amount of light at the right height to aid facial recognition. Bollard lighting serves well in guiding through a route but not so well from a safety and security perspective. Care needs to be taken with regard to planting and landscaping, where applicable, so as to not create hiding places, areas of concealment for vehicle interference or impede surveillance or lighting opportunities. To deter and prevent criminal intrusion, the site should be securely enclosed by means of appropriate security fencing and gates.

Drainage Engineer: Prior to planning permission being granted further information is required. The proposed drainage strategy must comply with the previously agreed White Rock Development Surface Water Drainage Strategy together with the requirements of the Torbay Critical Drainage Area where any surface water discharge rate from the site to a watercourse, surface water sewer or combined sewer must be limited to Greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus an allowance for climate change. The applicant must submit the hydraulic design for the entire surface water drainage system in order to confirm that the discharge rate complies with the requirements of the Torbay Critical Drainage Area and that there is no risk of flooding to properties on the development site or that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to this development

Natural England: Objection, further information is required. The consultation documents provided do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered. It is Natural England's advice that the proposal is not necessary for the management of the European site. The authority should 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. It is recommended that the following information be obtained to help undertake a Habitats Regulations Assessment:

The Preliminary Ecological Appraisal (Ecosulis, 22 July 2016) confirms that the proposed development site provides suitable foraging and commuting opportunities (grassland, hedgerows, and woodland) for bats. The site is also unlit and has good connectivity to surrounding habitats, and these conditions provide potential to support greater horseshoe bats. The application has not provided an up-to-date greater horseshoe bat survey based upon local best practice guidance. Without up-to-date survey data (no more than 2/3 years old), there is significant uncertainty regarding the value of the site for greater horseshoe bats, and a reliable basis to understand impacts. Without this information, it will be difficult to rule out likely significant effects upon the South Hams SAC as part of a Habitats Regulations Assessment.

In the absence of greater horseshoe bat survey data, the Preliminary Ecological Appraisal (PEA) takes a speculative approach towards identifying impacts and mitigation measures. Section 3 of the PEA provides a Table with a column titled "Action required for Planning/ Legal compliance". Under the corresponding South Hams SAC row, the *action* includes "considerations have been put into the masterplan for the site...including sensitive lighting scheme and the retention of dark corridors for commuting and foraging." Whilst the principle of the measures put forward might be sufficient (depending upon sufficient survey data and impact assessment), the absence of sufficient detail does not provide a robust basis for a Habitats Regulations Assessment. As stated in the Alexis Huggins email (6th September 2016) the terminology is also imprecise and vague, providing no confidence that there is proper commitment towards delivery of the principles put forward in the PEA.

Retained and new habitat features will need to be supported by a sufficient buffer to allow functional use by greater horseshoe bats. The proposed 3-5 metre wide buffer is insufficient and needs to be widened. Once survey data and assessment of impacts has taken place, it will be necessary for the applicant to provide sufficient detail and certainty regarding the measures put forward. All mitigation measures need to be clearly outlined and supported by plans showing where the mitigation measures will be delivered. In addition, it is important that a date is fixed for the phasing of agreed mitigation measures (this needs to be at an early stage in order to ensure that the mitigation is in place in advance of potential impacts).

A lighting strategy should be provided to ensure that light spillage parameters are set in advance of reaching a decision to prevent detrimental light spillage upon greater horseshoe bat habitats. Typically, detrimental light spillage upon greater

horseshoe bat habitats (adjoining hedgerows, woodland edge) is considered to be 0.5 Lux and above.

In addition to a Landscape and Environmental Management Plan (LEMP), it will be necessary to provide a Construction and Ecological Management Plan (CEMP) based upon best practice to inform the management of impacts during the construction phase. Depending upon survey data and an impact assessment, it might be necessary to review the LEMP.

Mitigation measures will only be considered sufficiently robust where delivery mechanisms are explicitly identified and secured in perpetuity through appropriate planning condition/ obligation. The LEMP needs to be revised to provide commitment towards the ongoing management of mitigation measures for the duration of the development. All agreed mitigation and enhancement measures will need to be secured in-perpetuity to reflect the permanent nature of the impacts.

South Devon AONB Unit: No comments received to date.

South Hams District Council: No comments received.

Ecological Consultant: Response will be reported to Members at the meeting.

Summary Of Representations:

None received.

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 392m²A1/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/2013/1009 Reserved matters application for P/2011/0197 including appearance, landscaping, layout and scale of 2 industrial units, enabling work for new road, demolition of unit 31, relocation of 10 parking spaces for unit 33-34 APPROVED 16.10.2013

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 - 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 REFUSED 24.08.2016
P/2016/0188	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 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
P/2016/0842	EIA Screening in relation to one industrial unit of 6,000 sqm floorspace - EIA NOT REQUIRED

Key Issues/Material Considerations:

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

Principle:

The site is identified within the Torbay Local Plan (SDP3.5) as a committed strategic mixed use employment/housing development that will provide 8.5ha of employment land, around 1,200 jobs and around 350 dwellings largely over the first half of the Plan period. Whilst this proposal is a new full application the previous planning history on this site remains a material consideration. Outline consent has been granted for the mixed use development of the site. This application was approved following extensive consultation. It 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 general position of the proposal is in accordance with the indicative layout agreed at outline stage being within the Western Bowl which was highlighted for industrial development.

Policy SS5 of the Torbay Local Plan 2012-2030 supports the provision of new employment space and the improvement of existing employment space in West Paignton. Similarly policies SS2 and SDP3.5 support the creation of a range of employment opportunities in this area. The Torbay Development Agency supports the provision of this employment use.

The site is within the Mineral Safeguarding Area. This issue was assessed in detail at the outline application stage and as above the previous permissions are material considerations. The Local Plan continues to support the provision of employment uses in this location. Policy M3 of the Torbay Local Plan states that the Council will seek to safeguard important mineral resources and sites. Information submitted at outline stage which established the development of the site within the Mineral Safeguarding Area concluded that the development of this site would have a minor negative impact upon the opportunity to deliver open limestone extraction within the immediate vicinity of the site. On balance and having considered the environmental impacts of extraction in this location together with previous permissions on this site, the development of this site is not considered to result in a significantly detrimental impact upon mineral extraction in this location.

Consequently, the principle of the proposed development is acceptable.

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.

The design and access statement submitted with outline application reference P/2011/0197 indicated that the levels, positions and building heights are critical in terms of restricting visual impact from the west and south. The building in the north western corner of the scheme was intended to take the form of a traditional agricultural cluster, set within the landscape. It was proposed to be single storey with a small two storey element. The visual impact of this building from views from Aish and Stoke Gabriel was to be further reduced by sensitive elevation and roof materials, colours and treatments, supplemented by localised earthworks and planting to the edge of the development. It is clear that the proposed development does not accord with the principles set out in this paragraph of the outline application Design and Access Statement. It is therefore necessary to assess the proposal against the relevant policies in the Torbay Local Plan relating to design and landscape in order to determine whether it constitutes an acceptable form of development in this location.

The maximum height of the building is lower than +81m AOD, in line with the mitigation measures described in the outline application. The design of the building is typical of an industrial building and reflects the design of others within the Torbay Industrial Estate. Rather than being designed to appear as a collection of buildings, the proposal is for one large building, which is contrary to the principles agreed at outline stage. The building has been designed to meet the needs of the future occupier. Whilst there is little that can be altered in terms of the form and scale without hindering the operation of the user, the elevational treatment to the west and south elevations can be varied in order to improve its integration into the landscape setting. Revised plans have been requested to show an amended elevational treatment on the west elevation.

The layout of the site remains inward facing with the service yard to the east away from existing and proposed woodland belts. However the parking area is situated to the northern elevation of the building alongside the existing woodland area to the north. The proposed layout may have potential issues in relation to the wider landscape and biodiversity impact due to the use of lighting. This could be overcome by a sensitive lighting scheme and strong landscape screening to the west which would limit and reduce any landscape and biodiversity impact.

Whilst the height of the building reflects the principles established at outline stage, changes of the form of the building mean that revisions to the elevations are required to ensure an acceptable design and that, in wider views, the building integrates within its landscape setting. The landscape consultant has included a number of recommendations in his consultation response including providing a mound to screen the lower elevations of the building. Revised plans and further information are expected in order to resolve the issues outlined above. In terms of lighting, this is discussed further in paragraphs below.

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 visible from the AONB and could have an impact on 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 this mitigation has not been provided in line with agreed phasing plans, despite officer requests over the last two years or so, nor is some of this landscaping shown on the submitted plans. The woodland planting required between the existing two areas of woodland should have been implemented once the two units to the east of the site were completed. These were completed in 2014 and the planting works have yet to commence. As part of the determination of this application it is important that provision of this planting is secured.

The Design and Access Statement submitted at outline stage, states that the building to the north west corner, in response to visual impact concerns, is to have the appearance of an agricultural complex. It was envisaged at outline stage that external lighting would be required, although sensitively designed. The LVIA submitted at outline stage notes the following mitigation measures in relation to the western bowl:

- a) Proposing a finer grained development of smaller units than in the permitted business park development, to give lower ridge heights, and better opportunities for integration of landscape works within and around the development
- b) The maximum height above OD has been kept to less than +81m
- c) The use of non-reflective and recessive coloured materials for the facades and roofs of buildings on the western bowl to integrate the development into its landscape setting and, where the proposed units mask existing light coloured buildings, result in a reduction in visual intrusion in views from the south and west
- d) In the western bowl development, the units have been reduced in size and are arranged around inward-facing service and parking areas. This is in order to reduce light spillage beyond the site boundaries, and so that the

simple rear elevations and recessive colouring of the buildings can form part of the mitigation measures.

- e) Existing woodlands around the western end of the site would be protected and extended to increase screening effect
- f) Existing hedgerows around and within the site have been integrated into the development, to preserve their landscape, visual and wildlife benefits
- g) Around the western bowl, new woodland blocks would contribute to the existing enclosure provided by Shopdown Copse and Peter's Copse
- h) To the south of the site, significant woodland blocks and belts are proposed, to link and extend the screening and habitat value of the existing woods.

Of the above the measures, point (b), point (d) in part, point (e) and point (f) have been incorporated in to the scheme. As noted in the comments from the Council's landscape consultant, it is considered that the proposed development is likely to have a neutral to minor adverse effects on landscape when perceived from high ground within the South Devon AONB and an adverse effect upon the area lower lying parts of the South Devon AONB around Stoke Gabriel and Aish. The consultant has made several recommendations in order to mitigate the adverse landscaping effects. Such recommendations largely reflect those measures identified at outline stage. It is considered that the building is likely to appear too large and simple in form, resulting in the building appearing conspicuous within the landscape. It is considered that screening using a woodland belt, the remodeling of the building to provide an outward appearance of a group of buildings, the rendering of the building to break up its mass, the remodeling of the ground profile to the west to elevate the new woodland planting and the use of a sensitive lighting scheme would help to reduce the adverse effects on the landscape.

Of these measures not all are feasible for the proposed end-use of the building. The building has been designed to reflect the needs of the proposed occupant and as such the remodelling of the building is not an option to allow for the proposed use. However revised plans are expected to show different colour elevations to the west and south elevations to provide the illusion of multiple buildings as intended within the outline application. The applicant is currently considering opportunities for bunding and securing the off-site woodland planting at the earliest opportunity. Further information relating to external lighting is also expected. Should the application be approved conditions relating to the submission of a Construction Ecological Management Plan, Landscape and Ecological Management Plan and the implementation of the woodland belt planting would need to be imposed.

Comments are expected from the South Devon AONB Unit in relation to the impact upon the South Devon AONB.

Biodiversity:

The Conservation of Habitats and Species Regulations 2010 imposes on local authorities the duty imposed by the EU Habitats Directive to ensure that plans or projects will not adversely affect European Sites such as SACs. In order to fulfil this duty, the authority must carry out a Habitats Regulation Assessment ('HRA') process.

The HRA process involves

- i. Gathering evidence on the site in question
- ii. Screening the plan or project for likely significant effect on the site (including in combination with other plans or projects) – note that, in undertaking the screening process, the authority must take a 'precautionary approach', meaning that a likely significant effect must be assumed where insufficient evidence has been produced to the contrary
- iii. Where likely significant effects are identified (or insufficient evidence provided), undertaking an Appropriate Assessment to ascertain the effect on the site's integrity
- iv. Where the plan or project will have an effect on the site's integrity (or where the effects are uncertain), alternative solutions and mitigation measures should be examined
- v. Where alternative solutions and mitigation measures have been examined but it is still likely that there will be a significant effect, consent should only be granted if
 - a. there are no alternative solutions; and
 - b. there are imperative reasons of overriding public interest (this is usually known as IROPI)

Paragraph 118 of the National Planning Policy Framework (NPPF) states that in terms of biodiversity, if significant harm resulting from a development within a SAC cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. Paragraph 119 of the NPPF states 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. As indicated (in i. to v. above), until an HRA is completed it is not known whether an Appropriate Assessment is required. Similar objectives are detailed within policy SS8, Natural Environment and NC1, Nature Conservation.

Consultees' advise that insufficient information has been submitted to demonstrate that the development will not result in likely significant effects upon the South Hams SAC. As a result, Natural England indicates that a screening process would currently find that an Appropriate Assessment will be required before a formal decision on the planning application is made. Based on the level of information submitted, it is considered likely that the results of such an Appropriate Assessment will be that the development is likely to result in a significant adverse effect and therefore permission should only be granted if

there are no alternative sites or there are imperative reasons of overriding public interest which outweigh any harm identified.

Because 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 the proposal is currently 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. However, officers believe it will be possible to satisfy NPPF and Local Plan requirements. Additional information and further discussion between Natural England and the applicant are being carried out in order to address the issues outlined above. If an acceptable position is achieved, a Construction and Ecological Management Plan (CEMP) and Landscape and Ecological Management Plan (LEMP) to include a detailed landscaping scheme taking into account recommendations of the submitted surveys would be required as a condition of the planning permission.

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 positioned some distance from proposed residential dwellings and is separated by a proposed ridge-top park and is 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. Due to the distance separating the proposal from neighbouring dwellings, the lighting proposed and any noise as a result of the operation of the building is not considered to result in a nuisance to current or future residential occupiers of Whiterock.

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.

Access and Parking:

The submitted Planning Statement states that traffic generation for the additional floorspace has been taken into account in the overall development of the Western Bowl element of the wider White Rock scheme. In line with the comments from the Council's Senior Strategy and Project Officer, an unimpeded footway access to the site should be provided along with lined pedestrian priority within the site to ensure pedestrian safety. Revised plans are expected to show the provision of a footpath to the site.

The application shows parking for around 120 cars. The Local Plan sets a parking standard of 1 space per 35 sq m, which would require a greater number of spaces. However having considered the number of employees proposed (45 full time employees) on balance it is accepted that it is not in the interests of sustainability to demand large areas of parking. 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.

18 cycle parking bays are proposed, these bays should be covered and secure. Were the application to be approved, a condition requiring full details of the 18 secure cycle spaces would be required.

Conclusions

The provision of an employment use within the site has been established by the earlier outline application for the wider Whiterock site. Whilst this application has now expired, it remains a material consideration and the continued provision of employment uses in this location continues to be supported by current Local Plan policies and is important for economic recovery and growth in Torbay. Consequently the principle of industrial uses on this site remains acceptable and should be supported by DMC.

However the form, design and lighting has the potential cause adverse impacts upon the wider landscape including the setting of the South Devon AONB and the South Hams Special Area of Conservation. Officers believe these issues can be resolved, in compliance with national and local policy. Further information and revised plans are required in order to demonstrate that such adverse impacts can be successfully mitigated. Should such issues be resolved conditions will be required to secure such mitigation in perpetuity. Revised plans are also required to include the provision of an unimpeded footpath on Woodview Road and additional information is required to demonstrate an acceptable surface water drainage strategy.

Conditions:

1. LEMP
2. CEMP
3. Travel Plan
4. Provision of Parking

5. Details of Cycle Parking
6. Provision of Footpath
7. Landscaping
8. Lighting
9. Provision of Ecological Mitigation Measures
10. Provision of Offsite Woodland Planting
11. Provision of Waste Storage

Relevant Policies

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