

**P/2011/0018/MPA**

**Berry Head With Furzeham Ward**

**Torbay Holiday Chalets, Fishcombe Road, Brixham**

**Formation of 40 self-catering units with associated leisure facilities**

### **Site Details**

The plot contains a long established holiday complex that sits in a relatively small and secluded site off Fishcombe Road, Brixham, which is sandwiched between the wooded areas of Battery Gardens and The Grove. The existing complex contains 30 holiday chalets arranged within curved terraces along with some ancillary buildings, which have northerly coastal outlooks over Fishcombe Cove.

The existing development is not only in general poor repair due to non-use over the past few years, but also more fundamentally displays quite poor architectural form, with an ad-hoc mix of pitched and flat roofed buildings. Towards the coast the buildings overlook an area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the cove. The site itself has a direct corner access and the area as a whole is accessed via a winding road (Fishcombe Road) that leads from Northfields Lane and serves the small number of sites in the locality, including the beach access lane, the Brixham Holiday Park and the public footpath leading towards The Grove woodland.

In regard to planning designation the site sits immediately adjacent to the South Hams Area of Outstanding Natural Beauty (AONB) and is within the 5km buffer zone of the Berry Head SAC (Special Area of Conservation). In addition approximately half of the site (on the coastal side) sits under the local designations of Countryside Zone (CZ) and County Wildlife Site (CWS). It is also pertinent to acknowledge that the site sits adjacent to the Battery Gardens SAM (Scheduled Ancient Monument) and the Candidate Marine SAC.

### **Relevant Planning History**

P/2006/0838 - Six New Holiday Flats, New Clubhouse with managers flat above and guest facilities (In Outline) (Renewal Of Application P/2003/1221/OA) – Approved (previously considered and approved under 1993/0169, 1997/0975, 2000/0889 and 2003/1221).

### **Relevant Policies**

Saved Torbay Local Plan 1995–2011:

- LS Landscape Strategy
- L1 Areas of Outstanding Natural beauty
- L4 Countryside Zone
- L10 Major development and landscaping
- NCS Nature conservation strategy
- NC1 Protected sites – internationally important sites
- NC3 Protected sites – locally important sites
- NC5 Protected species
- EPS Environmental protection strategy
- EP6 Derelict or under-used land
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- TUS Tourism strategy
- TU3 New Tourist facilities elsewhere
- TU5 New holiday accommodation
- TU7 Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
- TU9 Refurbishment and development of new holiday centres or parks
- TU10 Change of use or redevelopment of holiday centres and parks

TS	Land use transportation strategy
T25	Car parking in new development; and
T26	Access from development on to the highway
CFS	Sustainable communities strategy
CF6	Community infrastructure contributions
HS	Housing strategy
H2	New housing on unidentified sites
H6	Affordable housing on unidentified sites
H9	Layout, design and community aspects
W7	Development and waste facilities

## Proposals

The proposal is a redevelopment scheme to clear the site of the current buildings in order to supply 40 self-catering units with associated leisure facilities. These facilities are to include a spa, restaurant, indoor and outdoor pools, and a 'natural' play area. The proposed units are a mix of one and two storey buildings that incorporate outdoor terraces and light glass-box detailing within the upper floor (in order to respond to the orientation and viewpoints).

The units are laid out in curved terraces with 'green' roofs, which layer down the site with the natural topography. The associated leisure facilities are set towards the east of the site close to the proposed entrance. The proposed access has been twice revised in order to respond to local concerns over highway safety and pedestrian movement to and from the beach access lane, and now sits in the same position as the current site access on the corner of the site.

On site parking is split between a small number of greeting spaces and groupings of spaces dotted amongst the upper areas of the development within a 'home zone' design scheme, which in total provides for 1:1 parking. In regard to landscaping the proposal shows the retention of a green fringe towards the coast, albeit reduced due to the extent of built footprint proposed. This is supplemented by green roofing and landscaping works within the built area, which is stated as providing an overall net gain of greenscape across the site over the existing arrangement.

The application includes aspirations to provide off-site enhancements by improving the access to The Grove woodland via America Lane, along with the proposed rerouting of the coastal footpath to provide a route seaward of the development that links more directly with Fishcombe Cove Beach.

It should be noted that the current application seeks approval for 40 self-catering units of residential occupation without holiday restriction clauses.

## Consultations

Various consultations have been requested in response to the scale of the proposals and the landscape designations over the site, a number of which are still pending.

Consultation responses received

*Environment Agency:*

No objection to the proposal subject to best practice being used for the disposal of surface water runoff.

*Natural England:*

Considers that the proposal has the potential to adversely impact the natural beauty of the AONB and therefore request that due consideration is given to the comments submitted by the AONB Unit/Partnership.

It is also noted that the proposals put forward by EAD Ltd and Section 4 of the Ecological Impact Assessment (JAN 2011) should be conditioned as part of any potential permission by the Authority, in order to maintain the favourable conservation status of the South Hams SAC.

*The Authority's Conservation & Design Team:*

No objections, the scheme has responded positively to the Design Review Panel comments.

*The Authority's Arboriculture Team:*

No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore there are no objections to the application on arboricultural merit.

*The Authority's Highways Department:*

Highways would raise no objection to the proposals shown in Drawing Number 3173-d-40, although it should be noted that the access to the site isn't directly onto the public highway and therefore permission to use the Beach access lane should be sought.

Strategically a Transport Statement has been submitted to the satisfaction of the Authority's Senior Transport Planner and the application also includes an outline staff and visitor Travel Plan. The transportation team request a s106 contribution to improve walking and cycling in the area.

*South Hams AONB Unit:*

The principle of redeveloping the site from its present derelict state is supported, as is the retention of a leisure / tourism use, and the Unit Manager welcomes the improved visual impact of the development. However, the level of development and the movement towards the coast runs contrary to basic principles. The concluding comment outlines that the scheme is not supported by the AONB office. It should be noted that should the Local Planning Authority be minded to approve the application conditions should be secured in respect to details of external works, securing genuine holiday use and the access is suitably explored.

It has been indicated that further comments will be supplied following an explanatory meeting with the Agents and the assessment of the more recent plans submitted.

*English Heritage:*

Advice received outlining that English Heritage do not wish to comment on the scheme.

*The Authority's Drainage Department:*

The proposal decreases the amount of impermeable surface within the site and drains surface water to the surrounding fields, which currently happens. There is no objection to the development.

*Brixham Town Council:*

Support the scheme.

Consultation responses still pending

*The Authority's Affordable Housing Team:*

## **Representations**

A number of representations both in support and opposing the scheme have been received. These have been re-produced and placed in the Members Room.

Broadly the letters in support raise the positive benefits of investment and regeneration, along with the removal of an existing eyesore and improvements to the coastal footpath route.

Objections appear to largely cite concerns in regards to the proposed access point part of the way down the beach access lane and the harm that could result from this upon pedestrians using the beach and the Brixham Battery Museum. Also raised is the more limited concern in regard to the positioning of the refuse/storage area near the museum and the impact of this in terms of odour and noise. It should be noted that revised drawings have been submitted that show the access at its present location on the corner, which is a direct response to the number of highway concerns raised

within public representation. It is hence important to note that none of the numerous highway related objections are a response to the present access scheme put forward.

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

The key issues relate to the acceptability of the proposed open and unrestricted residential use of the site within this context, the implications for the local landscape and ecology from the development, the impact upon the highway network from the development, and the possible implications upon the amenity afforded to neighbouring sites/occupiers.

### ***The Principal of Residential Development***

The proposal sets out the aspirations to provide up-market holiday accommodation that is not provided through restricted holiday use but through an open residential consent for reasons of viability.

On paper the proposal is therefore for the loss of a holiday site (albeit derelict) for residential use, albeit with ancillary leisure facilities, but with the aspiration for the delivery of holiday-based occupancy within the units.

The ethos that supports the development is the philosophy that design influences use and that, therefore, through restricting private outdoor space and providing only minimal kitchen and storage space internally and through the sites overall layout, the design will encourage holiday use and discourage permanent residential use. In addition, the provision of engrained leisure facilities and the cost to each unit occupier of supporting the site's higher than average maintenance should likewise discourage permanent use. It is also of relevance that the coastal aspect is supportive of a holiday let income from units. In combination these set of circumstances, alongside commitments to build out the leisure facilities prior to occupation of any of the units and other terms relating to the it will provide an arrangement and set of influences that will present a natural steer towards holiday occupancy over permanent occupancy.

Leading from the above, in respect to open occupancy, the key questions are considered to be whether the Authority is satisfied with the assertion that design will indeed influence use, and if so how this could be bolstered through other measures within conditions and the S106 Legal Agreement. Members have expressed their concerns that the site should be restricted to holiday use notwithstanding the clear investment and the issues raised by the applicant in relation to the viability of restricted uses. Officers will continue to negotiate with the applicant and progress on the issue of agreeing appropriate restrictive clauses will be reported at the committee meeting.

### ***Visual Implications***

The proposal removes the unsightly semi-derelict buildings that currently scar the site and the wider area and AONB. The removal of the existing development is therefore clearly supported and this is reiterated by the South Hams AONB Team.

The proposal provides a radial pattern of development, which harks back to the historical development pattern on the site from the 1950s timber holiday chalets (as referred to and visually illustrated in the submitted Design and Access Statement). The terraced form seeks to utilise the natural drop in topography, minimising the apparent scale of the development when viewed from outside of the site (both from the sea and the land).

The architectural form seeks to provide clearly modern development which includes intelligent use of the internal/external space to make best use of the views and limited sun-path. The rhythm of buildings refers to the historical chalet use and the street enclosure and the provision of viewing steps down through the site takes its reference from the historic core of Brixham. The layout seeks to integrate parking within the development but restricted to the upper half, through a pedestrian-friendly Home Zone. All these components fuse to provide an interesting and positive scheme for the site which is considered to respond to the constraints and opportunities.

It should be noted that the proposal has been though the Torbay Design Review Panel and the current

submission has positively responded to the comments that were outlined by the panel. A copy of the panel's comments to the previous scheme has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

The comments of the South Hams AONB Unit are mixed, outlining both perceived benefit and potential harm. On the one hand there is acceptance that the current development is harmful to the character and appearance of the adjacent AONB and that boundary improvement works and off site works to America Lane, along with the revised coastal footpath route, would improve the experience of the AONB. However, on the other hand it is iterated that development encroaching towards the coast in terms of the extended footprint is clearly not a philosophy that can be supported in principle.

Officers consider it important to have regard to the comments of the South Hams AONB Unit Manager, however, it this is one of a multitude of issues to consider. Officer consider, on balance, that given the positive enhancement set out in the overall design philosophy and given the investment opportunity and the intended leisure and tourist uses, the wider benefits of the scheme outweigh concerns related to the extension of the built footprint in this instance. This is provided that an appropriate agreement can be reached in relation to the control of the use of the site for holiday and leisure purposes.

The likely impact upon the adjacent Battery Gardens Scheduled Ancient Monument is negligible, due to the scale and form of development and the distance between the two sites. English Heritage has confirmed they do not wish to provide detailed comment on the proposal.

The key issues for members to consider in relation to design and visual impact are therefore:

1. The extent of built footprint on the site, which goes beyond the existing built footprint towards the coast,
2. the visual impact of the development from public vantage points, including Battery Gardens, the coast and coastal path and the land behind at Brixham Holiday Park and comparison between the impact of the existing built form, and;
3. the design approach in relation to the site itself and how this provides for the intended holiday / leisure use and responds to the unique setting.

### ***Ecological Implications***

As the site is largely covered by existing development, through buildings and hardstandings, there is limited flora and fauna of any value. However, a phase 1 Habitat Survey has however recorded evidence of slow worms and the Lesser Horseshoe Bat.

Natural England has not identified specific concern in regard to any particular issue, however, they have indicated that the mitigating measures identified within the submitted Ecological Impact Assessment should be conditioned as part of any planning approval. Deferring to this advice the proposal is considered acceptable in respect of the ecological implications and provided that these measures are controlled by condition it is considered that the development will not have a likely significant impact on the South Hams SAC so as to warrant a Habitats Regulations Assessment.

### ***Highway Issues***

The proposal provides a 1:1 parking ratio with the access amended to the corner adjacent to Beach lane. The Authority's Highways Department considers the proposals acceptable on highways grounds as the established use largely mitigates the implications of the redevelopment scheme of 40 units. There is therefore no stated objection on highways grounds, and officers consider that the revised site access has appropriately responded to the concerns raised by local neighbouring occupiers and interest groups.

### ***Amenity Issues***

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding

sites and buildings, provides a scheme that is likely to have little impact upon the amenity afforded to neighbouring occupiers and businesses. The proposal is therefore considered acceptable on amenity grounds.

### **Planning Contributions**

As the proposal is effectively for the provision of 40 open residential units, the scheme should attract affordable housing and sustainable development contributions in line with the Authority's adopted policy, unless mitigation for current use or viability demonstrates otherwise. This point will be raised in discussions with the applicant and it is hoped that this can be resolved through restrictive clauses in order to move the type of development away from open residential into restricted holiday occupancy. If this is not feasible then officers recommend that a viability assessment be carried out to determine the viability of this scheme and the level of affordable housing / commuted sum that the scheme could yield.

### **Sustainability -**

The scheme will bring back to life a brownfield semi-derelict tourism site that sits within a sustainable location near to supporting holiday facilities and transport infrastructure. This is a sustainable location for the espoused leisure and tourism use, however, without restrictions over the use the site could adapt to permanent residential occupancy, which would not be a sustainable form of development without the provision of appropriate affordable housing and community infrastructure under s106 of the planning act.

### **Crime and Disorder -**

It is likely that an operational and managed site would increase activity and natural surveillance in and around the area and therefore reduce the likelihood of trespass or antisocial or unlawful behaviour which is more likely to take place on a semi-derelict site.

### **Disability Issues -**

The land is steeply sloping and it is not clear how the applicant intends to provide the necessary level platforms in order to meet with Part M of the Building Regulations. However, it is considered appropriate in any event to resolve this at the detailed design stage.

### **Conclusions**

The scheme provides an innovative redevelopment proposal of a brownfield site that is currently detrimental to the visual qualities of the area and does not contribute to the wider holiday package offered by Brixham. There are concerns raised in relation to the footprint of the scheme, which extends beyond the existing built footprint, however, the overall design approach is considered to be a significant enhancement over the existing built form. In addition there are wider net benefits to this scheme on top of the improvement to the appearance of the site, these include the provision of leisure facilities, units designed for holiday occupancy and new employment opportunities.

The packaging of the scheme as an open residential development due to the constraint that holiday restrictions place on viability adds a degree of complexity to this scheme, which is on a holiday site in an important coastal location.

Officers consider that, on balance, given the positive benefits of the scheme in design terms and given the intended use and the importance of this investment in regenerating the built environment, the extension of the built footprint is acceptable in this case. However, this is subject to continuing negotiations in relation to the use of the proposed units, with officers negotiating on the basis of members clear concerns that the site should be restricted for holiday occupancy. The outcome of these negotiations will be reported at the committee meeting.

### **Recommendations**

Committee site visit; Conditional approval; subject to the signing of a s106 legal agreement with

clauses to ensure the appropriate holiday occupancy of the site, the s106 to be signed within 6 months of the date of this committee meeting. Conditions to be delegated to the Executive Head of Spatial Planning.

**Condition(s):**

01. The development shall not be used/occupied until the vehicle parking areas and access thereto shown on the approved detailed plans have been provided and made available for use. These areas shall be kept permanently available at all times thereafter for parking and access purposes to serve the development.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Saved Torbay Local Plan, 1995 - 2011 (as adopted in April 2004), in the interests of highway safety, and in order to protect the amenities of the neighbourhood.

02. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, planting plans, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate, along with an implementation programme. The works shall be carried out within the first available planting season following the first occupation of the development. If within a period of 2 years from the completion of the development any tree or shrub planted as part of the approved landscaping scheme is cut down, felled, uprooted, removed, destroyed or dies or becomes seriously defective, it shall be replaced by another of a similar size and species in the next planting season following its removal/death or deflection, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the landscape character of the area and the impact on the Conservation Area, in accordance with Policies LS, L9 and BES of the Saved Adopted Torbay Local Plan 1995-2011.

03. All mitigation and enhancement proposals put forward within the submitted Ecological Impact Assessment (EAD, Jan 2011) shall be implemented as detailed, in full, unless otherwise submitted to and approved by the Local Planning Authority.

Reason: To suitably manage and protect identified species and habitats, in accordance with Policies NCS, NC1 and NC3 of the Saved Torbay Local Plan 1995-2011.

04. The leisure facilities detailed within the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the first unit, unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure an appropriate mix of uses on the site and form of development, in accordance with Policies BES, BE1, LS, L1, TUS, TU3, H9 and W7 of the Saved Torbay Local Plan 1995-2011.

05. Prior to the commencement of the development hereby approved samples of all external materials shall be submitted to or made available on site for the Local Planning Authority and agreed in writing. The development shall be completed in the approved materials.

Reason: In the interests of the visual amenities of the locality, in accordance with Policies H2, H9, BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan 1995-2011.