

**Application Number**

P/2018/0852

**Site Address**Land To Rear Of Broadway  
Dartmouth Road  
Brixham  
TQ5 0LH**Case Officer**

Mr Alexis Moran

**Ward**

Churston With Galmpton

**Executive Summary**

This is a Reserved Matters application seeking approval for the layout, appearance, scale, and landscaping of 9 dwellings. The site is within the Churston/Galmpton village envelope.

The submitted layout plan broadly follows the housing density and established urban grain of the villages of Churston and Galmpton. It is considered that the form, layout and design of the proposed development would be compatible with the appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to the Torbay Local Plan, and all other relevant material considerations.

**Recommendation**

Conditional approval, with final drafting of conditions to be delegated to the Assistant Director of Planning and Transport.

**Site Details**

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House (a Grade II Listed Building). Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south.

The site is within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding.

A Tree Preservation Order covers the eastern and northern boundaries of the site, these trees are considered to be important to the visual character of the area. The site area measures 0.27 hectares.

The site is located within the Churston/Galmpton Village Envelope in the Torbay Local Plan 2012-2030. This identifies it as an area which could provide

appropriate levels of housing provided that the development would be in keeping with the density and character of the area.

### **Detailed Proposals**

This is a Reserved Matters application relating to the layout, design, scale and landscaping of 9 dwellings and associated development. The submitted layout plan shows five detached dwellings and two pairs of semi-detached dwellings.

The application shows the two-pairs of semi-detached houses employing render with natural slate roofs and windows and doors of differing colours to provide variety and reflecting the general village character of Churston.

The detached dwellings are shown as having natural slate roofs and windows and doors of differing colours with a mix of render and stone on the principal elevations.

With regards to landscaping, the proposal shows the retention of existing boundary landscaping features with the addition of a hedge between plots 1 and 2.

There are 20 parking spaces, including garages, for the 9 dwellings and a parking area located adjacent to the trees protected by a Tree Protection Order to the east of the site.

### **Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

#### Material Considerations

- Emerging Brixham Peninsula Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

### **Summary Of Consultation Responses**

Natural England - No objection

SWW - No Objection

Highways - The Adopted Torbay Highway Design Guide policy states that developments of 5 dwellings and over on a new site should be encouraged to be adopted by the LHA, but to date the Developer has not contacted the LHA to prepare a section 38 Agreement with this Council.

The current layout does not show a suitable turning head that conforms with Today's Adoptable Standards.

If the Developer intends to adopt the access road then the proposals are contrary to the above policy.

Arboricultural Officer - No objection

Senior Historic Environment Officer - The proposal will not have a detrimental impact on the character or setting of the Grade II Listed Weary Ploughman.

### **Summary Of Representations**

None

### **Relevant Planning History**

P/2018/0837 - Reserved matters relating to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Tenth unit only. Under consideration.

P/2016/0772 - Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures. Approved 19.04.2017

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access) 30.06.2016

P/2015/0097 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 17.08.2015

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

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

The key issues are:

1. The Principle of the Proposed Development
2. Design and Scale
3. Layout and Impact on Residential Amenity
4. Impact on the Landscape Character

1. The Principle of the Proposed Development

The principle of residential use of the land for up to ten dwelling was established by the granting of outline planning permission, which related to access only, under planning reference P/2015/0097.

2. Character of the Area

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 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.'

Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. This Policy states that design is a key component in the creation of a sense of place and of space. The Policy advises that development should be well designed, respecting and enhancing Torbay's special qualities. As previously stated the centres of Churston and Galmpton Villages consist of terraced cottages however the wider area encompassed by the Village Envelope has a varied character of design, dwelling forms and plot sizes.

The two storey detached and semi-detached scale of dwellings is considered to be contextually acceptable and in keeping with development in the Churston/Galmpton village area. The proposed design of the dwellings with pitched roofs, bay windows and attached garages would accord with the character of Churston/Galmpton village.

In the main, the external materials of dwellings within the village envelope consist of render and stone. The proposed dwellings are proposed to be finished in a mix of render along with render and stone with coloured UPVC timber effect doors and windows and natural slate roofs.

Bearing this in mind it is considered that in essence the proposed appearance and design, having regard to the form and materials, complies with Policy DE1 of the Torbay Local Plan. In order to ensure the quality of the design, it is considered that a condition requiring the approval of cladding materials is necessary.

The proposal would have a density of around 33 dwellings per hectare, which is

considered to be appropriate for the location, considering the character of existing development in the surrounding area. The proposed buildings, in terms of their scale and design, are considered to be broadly in keeping with the character of the area. The proposed development would incorporate adequate arrangements for amenity spaces, parking and manoeuvring areas, the storage of refuse, and the provision of landscaping.

As such, it would not result in an overdevelopment of the site and, in terms of its appearance, would be sufficiently sympathetic to its surroundings. As such, the proposal is in accordance with Policies H1, DE1, DE3 and TA3.

It is however considered that conditions requiring further details of boundary treatments, further detail of hard and soft landscaping and its implementation and the removal of permitted development rights for all extensions to the buildings and within the plots, including means of enclosures, should be added to any granting of planning permission. The addition of these conditions is considered necessary in order to ensure the development accords with the aforementioned policies in future.

The Weary Ploughman public house, which is a Listed Building, is in excess of 50 away from the site. Given this distance it is considered that there would be no unreasonable amenity issues to this building as a result of the development of this site. The proposal would not be of detriment to the character or setting of the Listed Building and would comply with Policy HE1 (Listed Buildings).

### 3. Amenity

Policy DE3 (Development amenity) requires developments to be designed to provide a good level of amenity for future occupiers as well as current occupiers in the surrounding area.

The proposed dwellings comply with the internal floor area standards set out in Policy DE3 of the Local Plan.

There is an existing B1/B2 use to the rear of units 6, 7, 8 & 9 (some 12-15m from the rear of the proposed dwellings and 5-6m from the rear garden boundary) which consists of a filling station and a garage which offers M.O.T.s. It is noted that there are existing residential dwellings in the immediate area adjacent to the site and to the south-east of the garage. Furthermore, a relationship of this sort, although likely to cause some noise and disturbance during working hours, is not considered to be unacceptable given the separation distances involved. Advice from the Council's Environmental Health department is that the impact of noise and disturbance is something that can be mitigated through appropriate boundary treatments.

The garage to unit 9 is approximately 10m from the rear of the existing dwelling "Broadway" to the east of the site and the side elevation of unit 9 is some 15m

from the main rear elevation of the aforementioned property. Although these units will be sited in close proximity to one another, the elevational treatment of unit 9 has been designed so as to limit any unacceptable overlooking. Given the distance and relationship between them, it is considered that there would not be any unacceptable harm to the amenities of the existing occupiers in terms of their privacy, outlook, and access to light, and likewise in relation to the proposal's future occupiers.

Policy DE3 has a guideline for garden sizes to be at least 55 square metres. The gardens of units 7 & 8 are approximately 40 square metres and therefore below the guideline figures. However there are areas of green open space within easy walking distance of the site. On balance the gardens provided would provide a useable and level area of external amenity space and are, in this instance, considered to comply with Policy DE3 despite being below the guideline size of 55 square metres.

The rear amenity spaces for units 2, 3 & 4 would be located in close proximity to the school changing room building to the rear. However the boundary of the west of the site consists of established hedges and trees which provide a degree of screening and mitigation. Units 2, 3 & 4 provide sufficient useable external amenity to comply with Policy DE3. The proximity and height of the school changing room building would not impact on the levels of natural light available to the rear elevations of units 2, 3 & 4. The external amenity areas of the other dwellings are considered to be acceptable.

It is considered that the proposed development would not result in unacceptable harm to existing occupiers in neighbouring dwellings. It is also considered that the proposed dwellings would provide a satisfactory standard of living accommodation and amenity space for the enjoyment of future occupiers. In terms of their relationships to one another, the proposed dwellings would not result in any unacceptable impacts in terms of the amenities of their future occupiers. Given its layout, scale, appearance, and landscaping, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### 4. Impact on the Landscape Character

Policy C1 (Countryside and the rural economy) states that new development should protect, conserve or enhance the distinctive landscape characteristics and visual quality of a particular location.

The proposal shows the retention of the existing trees on the boundary with the Brixham Road, which are protected. A new hedge between the front and side boundaries of units 1 and 2 is proposed. Although the landscaping proposals are minimal, the landscape character of the area is considered to be retained given that the site is set back from the main road and is set down at a lower level than the Brixham Road. In addition to the aforementioned requirement for a landscaping condition, a condition requiring the submission of a Construction

Method Statement is deemed necessary to ensure the protection of the trees on the eastern boundary during construction of the adjacent parking area. On balance the proposal is deemed to comply with Policy C1.

Other Considerations -  
*Neighbourhood Plan*

The Brixham Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The most relevant policies for this application are Policies BH3, BH4, BH5 & E7. These policies require development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings, to provide a good quality of residential environment and to retain and enhance the landscape character of the area. The proposal is considered to comply with these policies as the scale and bulk respect the characteristic of the Churston/Galmpton Villages and retain the landscaping features on the eastern boundary of the site. The proposal is therefore considered to accord with the Brixham Neighbourhood Plan Policy.

*Drainage*

This was assessed at the outline stage with appropriate conditions being imposed, which must be complied with.

*Ecology*

This reserved matters application does not result in any further impact on ecology.

*Transport, access, and Parking*

Access details have been approved prior to the submission of this application. Highways have advised that the turning area within the site is not in accordance with the Torbay Highway Design Guide. As such the internal road could not be adopted. However in this instance the applicant wishes for part of the internal road to be private.

The application provides 20 parking spaces for the development which is 2 per dwelling plus 2 visitor parking spaces. The proposal complies with the parking standards of Policy TA3 of the Local Plan. A condition requiring the implementation of the parking areas, prior to the occupation of the dwellings and the retention of those spaces in the future, is considered to be necessary in order to ensure the future compliance with this policy.

**S106**

A section 106 agreement was completed as part of the Outline application (P/2015/0097)

### **Community Infrastructure Levy**

As the Outline application was approved prior to the adoption of CIL, the legal agreement entered into above is the means for obtaining contributions towards the development.

#### Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

#### EIA

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

#### Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

### **Conclusions**

The proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

### **Condition(s)/Reason(s)**

01. No development above damp proof course level shall take place until

details of the proposed cladding materials (walls and roof) and openings, along with the proposed hard landscaping, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030

02. Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

03. Prior to occupation of the first dwelling on the site, details of acoustic fencing to the rear boundaries of plots 6-9 shall be submitted to the Council for approval in writing. The approved acoustic fencing shall be erected prior to the first occupation of the dwellings hereby approved and thereafter retained at all times.

Reason: In the interests of amenity of the future occupiers of these dwellings and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

04. To avoid any indirect damage to the protected roots of the tree group protected by a Tree Protection Order, during the construction of the parking arrangement adjacent to the trees (shown on plan referenced Proposed Layout 619-050 Rev F received 14.08.2018), a suitable construction method statement shall be submitted to the Council for approval. The approved method statement shall be implemented in full during construction.

Reason: In order to ensure no detrimental impact to the protected trees and in the interests of the amenities of the area and to accord with policy C1 of the Torbay Local Plan 2012-2030.

05. The dwellings hereby approved shall not be occupied or brought into use until the associated garages, parking spaces and manoeuvring areas detailed on the approved plans have been completed. These elements shall thereafter be retained for the life of the development.

Reason: In accordance with highway safety and amenity, and in

accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

06. Prior to any development above damp proof course level, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within six months of the development being brought into use, and shall be retained for the life of the development.

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

07. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E and Part 2 Class A, no enlargements, improvements or other alterations shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Relevant Policies**

DE1 - Design

DE3 - Development Amenity

C1 - Countryside and the rural economy

C4 - Trees, hedgerows and natural landscape

TA2 - Development access

TA3 - Parking requirements

H1 - New housing on identified sites