

Application Number

P/2019/0291

Site AddressLand Off Luscombe Road
Paignton**Case Officer**

Mr Alexis Moran

Ward

Blatchcombe

Executive Summary

This is a Reserved Matters application relating to the proposed appearance, landscaping, layout and scale of seven dwellings, resulting in a change to their previously approved siting.

On balance, the proposal is considered to be appropriate for conditional reserved matters approval.

Reason for Referral to Planning Committee

The proposal relates to part of a major development previously approved by Members.

Recommendation

Conditional approval with final drafting of conditions and the resolution of any additional material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.

Site Details

The wider 1.5 hectare site was allocated for housing in the previous Torbay Local Plan (H1.13) and is identified as a potential site for allocation for the Paignton Neighbourhood Plan (Policy SDP 3) in the adopted Local Plan. It is located to the east of Luscombe Road and to the north of its junction with Queen Elizabeth Drive. Two dwellings originally occupied the north-west corner of the site (one of these has been demolished) and the balance of the site is rough pasture but was previously used for camping. It falls within an established residential area.

This Reserved Matters application relates to a section of the site which is approximately 0.3 hectares in area towards the northern end of the site.

A South West Water main runs north to south across the site (and to the south of the area which is the subject of this application) and requires a substantial 6 metre easement to be retained free of development. The site is located within Flood zone 1.

The site occupies part of the south eastern slope of a valley and it slopes quite steeply from north east to south west across the site. The site is bounded to the

west by the Luscombe Road designated cycle route and the boundary is defined by a mature hedgerow of 'important' ecological value. A number of trees occupy the site; those within the main body of the site identified as being of arboricultural value have recently been subject to a TPO. The trees on the east and west boundary of arboricultural merit are also protected by a TPO.

The site is, apart from the hedgerow and trees, of limited ecological value comprising predominantly horse-grazed pasture. The existing vehicular access to the site is from Luscombe Road. This is a designated cycle route and it provides a safe walking route to school to Kings Ash Academy.

Detailed Proposals

This is a Reserved Matters application relating to appearance, landscaping, layout and scale in relation to seven of the previously approved dwellings. Effectively this proposal entails a slight amendment to the Reserved Matters approval referenced P/2018/0522 (approved 12.12.2018). The previously approved Reserved Matters application (P/2018/0522) gave permission for the appearance, landscaping, layout and scale of 68 dwellings. It is necessary to relocate seven of the units (Nos. 1, 15 and 64-68 inclusive) due to the location of the South West Water main on the site, the location of which had previously been mis-surveyed.

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

- Torbay Local Plan ("The Local Plan")
- Paignton Neighbourhood Plan

Material Considerations

- 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

Paignton Neighbourhood Forum: No comments received.

Natural England: No comments received

Environment Agency: No comments received

Drainage: Drainage details were requested via a condition on the outline permission P/2014/0938 and are required prior to commencement.

South West Water: The only comment SWW has relates to the surface water drainage which if this is discharged to a pond as stated in the 2018 FRA this cannot be subsequently discharged to the public sewer.

Highways: No objection

Arboricultural Officer: No comments received at the time of writing this report, however the alterations to the layout are unlikely to alter the previous recommendation, which was:

Approval subject to conditions

1. Submission of revised tree protection plan prior to work commencing.
2. Submission of an arboricultural method statement prior to works commencing.

Architectural Liaison Officer: no comment

Summary of Representations

One letter of objection to the scheme had been received at the point at which this report was written. The concerns raised are as follows.

1. Drainage.
2. Impact on amenity in relation to loss of privacy and overlooking.

Relevant Planning History

P/2018/0522 - Reserved matters application relating to outline application P/2014/0938 (formation of up to 68 dwellings with associated road and landscaping). Approved 12.12.2018.

P/2014/0938 - Formation of up to 68 dwellings with associated road and landscaping; Approved 14.05.2018

Key Issues/Material Considerations

The principle of residential development of this site is long established through the previous allocation in the Local Plan and the granting of outline planning permission and Reserved Matters for up to 68 dwellings.

The key issues relate to the appearance, landscaping, layout and scale of development being proposed.

The matters for consideration are:

1. The character of the scheme.
2. The impact on the surrounding properties in terms of amenity.
3. Proposed Landscaping, impact on trees and ecology.
4. Flooding and drainage.
5. Impact on Highway network and traffic related concerns.
6. CIL

Each will be addressed in turn.

1. The character of the scheme.

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938. This condition states that the submitted reserved matters shall be based on the approved Master Plan as shown in Plan No.3528 (12) 03 rev P1 and the design concepts outlined within the associated Design and Access Statement dated July 2014.

The layout submitted is broadly based on the Master Plan approved by outline permission P/2014/0938. The amendment to the locations of the seven dwellings under consideration, particularly Nos. 64-68, will result in a change to the character of the public amenity area towards the northern end of the site which was previously approved by reserved matters consent P/2018/0522.

The public amenity area would be partially shifted to the south of its previous location to accommodate an additional cul-de-sac road and the parking for ten vehicles. This is due to the requirement to move 3 dwellings further north from their previously approved location as a result of the position of the existing South West Water main.

The proposal includes a similar area of public amenity space as provided by the previously approved reserved matters application. It is noted that the public amenity space is somewhat more broken up in this current scheme by the addition of the road to service units 64-68. However the proposed space is considered to be acceptable and still provides a good quality public space.

The proposed dwellings would be finished predominantly with red brick with render used to establish focal buildings through the site and to provide a different texture to corner buildings. Interconnecting concrete pan tiles would be used on the roofs of the buildings.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed this is in accordance with Paignton Neighbourhood Plan Policy PNP 1 (c) (Design Principles) which seeks to strengthen local identity by respecting the scale, design, height and density of a developments surroundings. The proposal is also deemed to comply with Policy DE1 of the Local Plan which, among other things,

requires development to be uncluttered and attractive, acknowledge local character and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

2. The impact on Amenity

Policy PNP1(c) iv) of the Paignton Neighbourhood Plan requires new development to protect residential amenity in terms of noise, air or light pollution; Policy DE3 of the Local Plan requires that all development should provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring or surrounding uses.

The separation distances between the properties on Kings Ash road and the units 1 and 64-68 is a minimum of approximately 50m which is considered sufficient to prevent any unacceptable impacts with regards to loss of privacy/overlooking.

The distance between the side elevations of the 4 storey apartment blocks to the north of the site and the rear elevations of Unit 1 is acceptable and it is not deemed that this would result in an unacceptable level of overlooking/loss of privacy.

Turning to the relationship internally, between the proposed dwellings, the layout is such that there are minimal conflicts in terms of overlooking/loss of privacy and outlook. Consequently the relationship is deemed to be acceptable in terms of the requirements of Policy DE3.

The gardens of the seven amended properties and the internal floor areas meet the standards set out in the local plan relating to policy DE3. As previously noted, alterations to some of the parking areas have been requested to improve the relationships between vehicles and dwellings.

There is a slight concern with regard to the rear gardens of units 64-66 where, based on the submitted plans, there appears to be overhanging tree limbs which may result in dark rear gardens and pressures to fell the trees to the rear of these properties in future. Although the rear gardens of units 64-66 provide suitable amenity spaces in terms of size standards there is potential for them to have limited light, and to suffer from tree debris and sap fall. Although it is not considered that this would lead to unacceptable levels of light into habitable areas, the quality of the amenity spaces would be somewhat reduced. However the relationship between the rear amenity areas and the units 64-66 is not dissimilar to that of the previously approved Reserved Matters application at the site (P/2018/0522).

Overall however the concerns in relation to the trees and units 64-66 are considered insufficient to warrant the refusal of the application and the arboricultural officer has not raised an objection on this point.

Tree details were conditioned as part of the outline permission where an Arboricultural Implications Study is required prior to the commencement of development.

Given its siting, scale, and design, it is considered that the proposal would not result in unacceptable harm to the amenities of existing occupiers, and that it would provide an adequate standard of living accommodation for the enjoyment of the proposal's future occupiers. In these respects, the proposal is considered to be in accordance with Policy PNP1(c) iv) of the Paignton Neighbourhood Plan and Policy DE3 of the Torbay Local Plan.

3. Landscaping, Trees, and Ecology

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. The development proposed under this application would not cause significant harm to existing trees and hedgerows and represents only a minor revision from the layout approved by the reserved matters consent P/2018/0522.

Policy PNP1 (a) b) of the Paignton Neighbourhood Plan states that development should increase biodiversity and ecological networks and Policy NC1 of the Local Plan requires development to conserve and enhance Torbay's biodiversity through the protection and improvement of fauna and flora. In terms of the ecological value of the site, an Ecological Impact Assessment has been submitted following a Phase 1 Habitat Survey. This identifies broad mitigation and enhancement proposals pre and post construction, and seeks to ensure that the most important ecological features of the site are protected and indeed improved.

A summary of the impact assessment, mitigation and residual effects was provided in Table 3 and Figure 1 of the Ecology Update Report. This included a number of measures to mitigate for any potential effects on local habitats, amphibians, badger, bats, nesting birds, invertebrates and reptiles.

The submitted ecological impact assessment notes that bats use the lane for commuting purposes. A Habitat Regulation Assessment (HRA) was undertaken as part of reserved matters application P/2018/0522, which concluded that the development would not have a Likely Significant Effect on the integrity of the South Hams Greater Horseshoe Bat Special Area of Conservation (SAC). The only plot which may impact on the lane, as part of this Reserved Matters application is No. 15, as it has moved approximately 9m to the north and no closer to the lane, it is not considered that this insignificant difference is sufficient

to require a revised HRA or that the impact on the South Hams Greater Horseshoe Bat Special Area of Conservation would be affected any further.

The Council's ecology consultant has no objection to the scheme subject to the proposals within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report being implemented and it is considered that a condition requiring the implementation of the mitigation measures in the Ecology Update Report can be requested by condition.

The Outline permission also required the submission of an external lighting strategy prior to the occupation of any of the units. This is to ensure the lighting from roads and footpaths has a minimal impact on bats in the area.

Subject to the aforementioned condition and further discharge of condition information in relation to the outline consent, the proposal is deemed to comply with Policies C4 and NC1 of the Torbay Local Plan.

4. Flooding and Drainage

Comments from South West Water are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the outline permission P/2014/0938. As such these details will be provided to the Council as part of a separate assessment exercise.

5. Highway Impact

These details were determined at the outline stage with conditions added to P/2014/0938 accordingly. The Council's Highways Department has confirmed that the road layout is acceptable and is of a standard which is adoptable. This accords with the requirements of the outline permission. The proposed layout includes parking spaces for 14 cars, or 2 per dwelling, which complies with the Council's parking standards.

The proposal is deemed to comply with Policies TA2 & TA3 of the Local Plan.

6. Community Infrastructure Levy

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. An exemption applies for the affordable housing. An informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

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 proposed layout, scale, appearance, and landscaping are considered to be acceptable, subject to the use of conditions. As such, the proposal is considered to be in accordance with the Torbay Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. Prior to development above damp proof course level details of the proposed cladding (walls and roof), openings, retaining walls and hard landscaping materials shall be 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 approved, 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. The scheme shall include details of boundary treatment between the boundaries of the dwellings and the existing hedge on the west boundary which shall prevent future occupiers from damaging the hedge.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1, DE3, NC1 & C4 of the Torbay Local Plan 2012-2030.

03. All planting, seeding or turfing comprised within the landscaping scheme hereby approved 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 three months of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 & C4 of the Adopted Torbay Local Plan 2012-2030.

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

05. Prior to the first occupation of each dwelling hereby permitted, provision shall be made for its refuse and bicycle storage according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration 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, with the

exception of one ancillary structure each up to 10 cubic metres in volume, 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 DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

07. The development shall proceed fully in accordance with the mitigation recommendations within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report. These measures shall be retained as such for the life of the development.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Torbay Local Plan.

08. Prior to the construction of any retaining walls at the rears of Plots 64-68, a geotechnical engineering assessment of the stability of the retained soils with regard to any potential destabilising effects brought about by construction and/or in-service conditions shall be submitted to the Local Authority for its approval in writing. The retaining wall shall be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure a safe and satisfactory development and in accordance with Policy ER4 of the Torbay Local Plan.

Relevant Policies

PNP1 - Area Wide
PNP1A - Rural Character Area
PNP1C - Design Principles
PNP1D - Residential Development
ER4 - Ground Stability 1
DE1 - Design
DE3 - Development Amenity
H1LFS - Applications for new homes_
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity_
SS11 - Sustainable Communities Strategy