



Friday, 28 September 2012

DEVELOPMENT MANAGEMENT COMMITTEE

A meeting of **Development Management Committee** will be held on

Monday, 8 October 2012

commencing at **2.00 pm**

The meeting will be held in the Ballroom, Oldway Mansion, Torquay Road,
Paignton, TQ3 2TE

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Hill

Councillor Kingscote

Councillor Pentney

Councillor Stockman

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

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01803 207087**

Email: governance.support@torbay.gov.uk



DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 10 September 2012.

(Pages 1 - 5)

3. **Declarations of Interests**

(a) To receive declarations of personal interests in respect of items on this agenda

For reference: Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of personal prejudicial interests in respect of items on this agenda

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Democratic Services or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **P/2012/0896/PA - 2 Whidborne Close, Torquay**

Extension and change of use to form 2 No houses.

(Pages 6 - 13)

6. **P/2012/0767/PA - 47 Parkhill Road, Torquay**

Proposed demolition of existing dwelling and construction of 5 new terrace houses with parking.

(Pages 14 - 20)

7. **P/2012/0737/PA - 25 Courtland Road, Torquay** (Pages 21 - 23)
Change of use of flat 2 to office/staff room/meeting rooms for the nursery.
8. **P/2012/0841/PA - Wilsbrook, 77 Avenue Road, Torquay** (Pages 24 - 26)
Change of use from guest house to (C3) dwelling house – retrospective.
9. **P/2012/0183/R3 - Victoria Park, Torquay Road, Paignton** (Pages 27 - 31)
Retention and change of use of the existing youth service building with a childcare facility (Class D1).
10. **P/2012/0859/PA - Paignton Community College, Waterleat Road, Paignton** (Pages 32 - 37)
Engineering works and access improvements in connection with the construction of multi-use sports hub; amendment to opening hours - Monday to Friday 08:00 to 21.30; Saturday 08:00 to 21.30 and Sunday 08.00 to 21.30.
11. **P/2012/0869/MPA - Land To The East Of Ocombe Farm Car Park, Preston Down Road, Paignton** (Pages 38 - 49)
Vehicle entry and erection of packing shed, glasshouse and poly-tunnel and horticultural trail ground.
12. **P/2012/0914/VC - Unit 4, Vista Apartments, 17 Alta Vista Road, Paignton** (Pages 50 - 54)
Variation of condition 1 to application P/2003/1605 to change from holiday let to permanent residential.
13. **P/2012/0995/PA - Roseville, Marine Gardens, Paignton** (Pages 55 - 61)
Change of use of residential home (Class C2) to house in multiple occupation (sui generis).
14. **P/2012/1002/R3 - Curledge Street County Primary School, Curledge Street, Paignton** (Pages 62 - 64)
Construction of a new link corridor extension (revision to permission P/2011/0384/R3).
15. **P/2012/1011/PA - Oldway Mansion, Torquay Road, Paignton** (Pages 65 - 69)
Change of use and restoration of stables to hotel use including internal and external alterations.
16. **P/2012/1012/LB - Oldway Mansion, Torquay Road, Paignton** (Pages 70 - 73)
Change of use and restoration of stables to hotel use including internal and external alterations.
17. **Blue Seafood Company Report** (Pages 74 - 75)
Committee to consider a Report.
18. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.

19. Site visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 3 October 2012. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Development Management Committee

10 September 2012

-: Present :-

Councillor Morey (Chairman)

Councillors Hytche (In place of McPhail), Brooksbank (In place of Addis), Baldrey, Barnby, Hill, Kingscote, Pentney and Stockman

(Also in attendance: Councillors Faulkner (J) and Davies)

52. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Hytche instead of Councillor McPhail and Councillor Brooksbank instead of Councillor Addis.

53. Minutes

The Minutes of the meeting of the Development Management Committee held on 25 June 2012 and 13 August 2012 were confirmed as a correct record and signed by the Chairman.

54. Urgent Items

The Committee considered the item in Minute 55, and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matters having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

55. P/2011/1201 Seaford Hotel, 2-4 Stafford Road, Paignton

The Committee considered a verbal updated raised by the Senior Planning Officer regarding application P/2011/1201 – Seaford Hotel, 2-4 Stafford Road, Paignton. The Committee agreed to extend the time limit, from that at the previously minuted meeting of 16 January 2012 (minute 478), to extend the time limit for the completion of the Section 106 agreement in relation to the application.

Resolved:

Committee to extend the 6 months period for the Section S106 Agreement.

56. P/2012/0666/HA - 42 Broadsands Road, Paignton

The Committee considered an application for a ground and first floor dormer extension to include integral double garage and car parking to front of the property.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mr Ruffe addressed the Committee against the application and Mr Swift addressed the Committee in support.

Resolved:

Approved subject to the conditions set out in the submitted report and revised plans to the rear garden and landscaping to the front of the property..

57. P/2012/0760/PA - Minerva Hotel, Adelphi Road, Paignton

The Committee considered an application for a change of use of guest house dining room to steak house with licensed bar.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting David Privett addressed the Committee against the application and David Birch addressed the Committee in support. In accordance with Standing Order B4.1 Councillor Davies addressed the Committee.

Resolved:

Approved subject to:

- (i) the conditions set out in the submitted report and conditions relating to refuse and opening hours be delegated to the Executive Head of Spatial Planning; and
- (ii) an additional condition that the ground floor Class A3 (restaurant and cafe) cannot be sold separately to the rest of the building.

58. P/2012/0782/R3 - Halswell House, 53 Totnes Road, Paignton

The Committee considered an application for 1.5 m high black metal security railings at front and side of building.

Prior to the meeting a written representation was circulated to the Committee.

Resolved:

Approved.

59. P/2012/0334/PA - Land Adjacent Brunswick Heights, Museum Road, Torquay

The Committee considered an application for the construction of two 2 bedroom mews-style houses with car parking spaces.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mr Colin Lee addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) the conditions set out in the submitted report;
- (ii) the completion of a Section 106 Agreement within three months of the date of this Committee or the application be re-considered by members; and
- (iii) condition 02 set out in the submitted report be delegated to the Executive Head of Spatial Planning to check the bin store is not in the Red Zone.

60. P/2012/0762/PA - Land Off Shakespeare Close, (Rear Of 2-14 Shakespeare Close And Rear Of 76 - 86 Queensway), Torquay

The Committee considered an application for the formation of one single storey two bedroom dwelling.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit.

Resolved:

Approved subject to the conditions set out in the submitted report.

61. P/2012/0767/PA - 47 Parkhill Road, Torquay

The Committee considered an application for the proposed demolition of existing dwelling and construction of five new terrace houses with parking.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mr Westaway addressed the Committee against the application and Mr Wood addressed the Committee in support. In accordance with Standing Order B4.1 Councillor Faulkner (J) addressed the Committee.

Resolved:

Consideration deferred for further information in respect of:

- (i) roof design;
- (ii) undertaking a Tree Survey;
- (iii) car parking; and
- (iv) proposed colour of buildings.

62. P/2012/0747/CA - St. Mary's Church, Methodist Church, Milton Street, Brixham

The Committee considered an application for the partial demolition to the rear of church and rear of hall.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mrs Cecilia Clapp addressed the Committee against the application and Mr Tom Pratt addressed the Committee in support.

Resolved:

- (i) approved subject to the conditions set out in the submitted report; and
- (ii) a Tree Officer be requested to undertake a Tree Survey on the neighbours' tree at the rear of development.

63. P/2012/0748/PA - St. Mary's Church, Methodist Church, Milton Street, Brixham

The Committee considered an application for demolition works; conversion of Church and hall into two, four bedroom dwellings.

Prior to the meeting written representations were circulated to the Committee and Members of the Development Management Committee undertook a site visit. At the meeting Mrs Cecilia Clapp addressed the Committee against the application and Mr Tom Pratt addressed the Committee in support.

Resolved:

Approved subject to the conditions set out in the submitted report and removal of the rear balconies from the development.

64. Exclusion of Press and Public

Prior to consideration of the item in Minute 65 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

65. Exempt item

Resolved:

that due to an alleged breach of an enforcement notice the Executive Head of Spatial Planning instructed to formally notify in writing of the alleged breach and give the reasonable timescale of one month for the breach to be remedied.

Chairwoman

Agenda Item 5

Application Number

P/2012/0896

Site Address

2 Whidborne Close
Torquay
Devon
TQ1 2PF

Case Officer

Mr Scott Jones

Ward

Wellswood

Description

Extension and change of use to form 2 No houses

Executive Summary/Key Outcomes

The proposal seeks permission to alter and extend the existing single-storey dwelling that sits in the plot in order to offer two two-storey dwellings (one with a partial under-build for garage/storage), which are flat-roofed and modern in appearance. The scheme divides the plot in order to provide separate curtilages and proposes the creation of an additional vehicular access across the footway and grass verge onto Whidborne Avenue.

The fundamental principle of sub-division to form two dwellings is considered acceptable as the plot is considered to have the area and natural frontage to comfortably sit an arrangement of two dwellings sat side-by-side.

The scale and design of the proposed dwellings sits comfortably with the predominant genre of redevelopment proposals in the area, for that of clean-lined 'marine' inspired properties sat under flat roofs.

Local amenity levels appear protected through stepped building lines and condition-led restrictions that would remove or limit overlooking and loss of privacy.

Highway safety for all road users is protected by offering two safe access points with on site parking at a level commensurate with the scale of dwellings.

Recommendation

Site Visit; Conditional Approval; Subject to (i) Suitable comments from the Authority's drainage section, (ii) A section 106 legal agreement being signed or the receipt of an upfront payment within 3 months of the date of this committee meeting in order to achieve social and physical infrastructure works, and (iii) Conditions to be delegated to the executive head of Spatial Planning.

Site Details

The site is a residential corner plot that sits on the southern side of the junction between the two residential roads of Whidborne Close and Whidborne Avenue.

It currently holds one dwelling that dates from the mid 20th century that offers single-storey accommodation within what is principally a linear layout. The building is typical of its time with unremarkable architecture that is also somewhat disjointed between the two distinct wings of the property.

In regard to plot layout the dwelling sits on a curved footprint that hugs the rear eastern border of the plot. The curve of the building is orientated towards a southwestern aspect over the key garden space and offers views across Whidborne Avenue towards the wider coastal vista. In line with the natural local topography for the estate that wraps around a hilltop the plot level drops from North to South.

Borders are defined by established hedging and the vehicle access and property entrance is found within the northeastern corner of the plot off Whidborne Close.

There are no built or landscape designations over the plot.

Detailed Proposals

The scheme is a comprehensive conversion and rebuild proposal to turn the current dwelling in to two detached dwellings. This is principally achieved by;

1. Removal of the existing link between the northern and southern wings of the current dwelling in order to provide distinct separation between the two properties proposed.
2. Remodelling and upward extension of the single-storey flat-roofed curved section of the current dwelling in order to offer a two-storey flat-roofed dwelling. The form of the dwelling is for elevations of render and horizontal boarding, with large areas of glazing (aluminium) and glazed terracing and balconies at first floor level. Parking is provided by the existing facility off Whidborne Close.
3. Removal of the southern wing of the existing dwelling and rebuild, over a slightly amended footprint, to provide the second detached dwelling. The dwelling features a similar elevation treatment to that of dwelling one, with render and clad walls inset with large areas of glazing supplemented by terrace and balcony features. The dwelling is two-storey with staggered building lines, with a partial lower level that offers parking and an entryway.
4. New vehicular and pedestrian access off Whidborne Avenue to serve the second dwelling, accessed over a highway verge and footway.

Summary Of Consultation Responses

Highways Department: The first property makes use of an existing access and therefore highways would have no objections to this.

The second dwelling with the new access has a visibility at the carriageway which is in excess of 33m in each direction at 2m back from the carriageway, the requirement for a 25mph road according to the Manual for Streets, and a parking allocation with turning facility that is acceptable.

Highways do recommend that the new access to the site is splayed slightly to ensure that vehicles exiting have good visibility of pedestrians using the footway, if this is implemented highways would raise no objection.

Drainage Department: Pending Comment.

South West Water: No Objection.

Summary Of Representations

A number of representations have been submitted. A summary of the points raised are as follows;

- Concern on highway safety due to the new access arrangements onto Whidborne Avenue
- Overdevelopment of the plot
- Development is out of character with the local area
- The development is too high
- Loss of outlook
- Loss of privacy across borders to the south and east
- Noise impact across borders
- The lower side of Whidborne Close is bungalow development with ridge heights largely unaltered from the original. Two-storey development would set an unsatisfactory precedent
- Drainage concerns
- The plans are misleading
- The development will update an outdated property and further lift the area
- Value of property (not a planning matter)
- Loss of private views (not a planning matter)
- Covenant restriction (not a planning matter)

These are reproduced at Page T.200.

Relevant Planning History

Pre-Application advice included comment that there would appear scope to offer two dwellings on the plot.

Key Issues/Material Considerations

General Principle and Planning Policy -

The plot has an established residential use and sits within a wider residential estate that largely holds single dwellings set in defined uniform plots, some of which have already been sub-divided and redeveloped. The scheme maintains residential use of the site, which is broad development commensurate with the established use and local character, and maintains dwellings as the form of residential use, which is also commensurate with the overriding form of occupancy. Considering this context the general principles the proposal is considered to sit comfortably with planning policy, as it appears supportive of the overriding residential character and potentially aligned with broader ambitions for the efficient use of previously developed land.

In regard to the notion of 'garden grabbing' the development offers two dwellings that are sat side-by-side, both provided with private curtilages and with independent direct access points to the adjacent highway system. Considering the plot layout, the attributes of each dwelling and the extent of previous development, it is not considered to be development that is most commonly portrayed as 'garden grabbing'.

Visual Impact -

The proposal offers a break to the existing extent of development by physically removing the central link as part of the scheme to extend and convert. This offers some visual relief to the linear form of development and strengthens the ability to provide two distinct dwellings.

The general scale of development is considered commensurate with the locality when considering the mix of one and two storey residences in the area. Although the southern side of Whidborne Close appears to be defined by low lying bungalow development the plot actually addresses Whidborne Avenue, due to the larger frontage and the natural orientation of the development. This gives a relationship and context towards a more mixed building form that is considered to support the notion towards upper floor development. It also offers a scale of building more akin to the adjacent corner unit to Whidborne Close, which itself is two-storey.

The flat roof design and modernist form to the elevations, which features clean render, areas of cladding and large expanses of glazing, is aligned with the regeneration genre that is becoming favoured in the area and noticeable in pockets throughout Whidborne Avenue, Thatcher Avenue and Ilsham Marine Drive.

All matters considered the proposal is considered to provide residential development that is appropriately scaled and formed, would sit comfortably within

its surrounds, and thus preserve the character and appearance of the streetscene.

Residential Layout -

as detailed the scheme provides two large detached dwellings with separate parking and outdoor amenity space, offered through balconies, terraces and softscaped gardens. The internal space is considered spacious and features rooms of an acceptable scale with adequate natural lighting and outlooks in order to offer a good residential environment. The parking and outdoor amenity space is adequate and will offer facilities commensurate with the dwelling type. All matters considered the proposal is considered to offer an acceptable residential environment for future occupants.

Neighbour Amenity -

The implications upon local amenity, in regard to potential overlooking/loss of privacy, loss of light/outlook/overbearing impact, have been considered.

Overlooking/Loss of Privacy:

The border relationships that are considered sensitive, due to orientation and proximity, are to the east and south.

Firstly in regard to the proposed relationship to the east (towards 4 Whidborne Close) there is the potential for impact due to the creation of upper floor living space and windows within these elevations. It is noted that the proposal details that a number of these windows are to be obscure glazed in order to protect neighbour amenity and this is welcomed. It does not detail whether these windows are to be openable or not, which if the case could give rise to close proximity overlooking of garden space and/habitable rooms, certainly in good weather. It is noted that, other than the window furthest-north within 'House 1' that is splayed away from the adjacent property and thus less sensitive, the rooms at first floor level are either double aspect or small non-habitable bathrooms. This potentially offers scope for these windows to be obscure and fixed closed through a planning condition without failing building regulations. Such a restriction would negate any overlooking and thus protect amenity levels to the rear.

To the south 'House 2' presents upper floor development with one obscured side-facing window and an upper floor balcony terrace with 1.8 metre high obscure screening on the southern side. These areas will sit approximately 2.4 metres closer to the joint southern boundary (with 53 Whidborne Avenue) than the current building line and at an elevated level. However it is appreciated that across the border sits a tiled bungalow roofscape and unknown elevation detail obscured by high hedging. The terraces main outlook will be to the west across Whidborne Avenue, which will be reinforced by the obscure screen, however oblique more southerly sightlines will be possible across the roofscape and to

parts of the garden. Notwithstanding this, with appreciation that it is commonplace for a degree of inter-looking between gardens, as the sightlines are oblique and the plot would largely be obscured by the roofscape of the property, the proposed levels of amenity are considered acceptable. Planning Condition could ensure the retention at all times of the obscure glass and screen.

Loss of light/Outlook/Overbearing Feeling:

The additional scale and massing of the curved property (House 1) is not considered likely to affect the levels of light afforded the immediate occupiers to the rear. This is largely due to the extent of the existing ground floor garage development, which is to be retained, which through proximity would largely obscure the proposed upper floor and additional bulk of the building from view. Wider relationships are distant and may affect 'views' but not outlook in terms ensuring attractive living environments for their occupants with adequate natural lighting etc.

In regard to 'House 2' the stepped rear elevation seeks to offer similar proportions regarding bulk and mass for the proposed dwelling to that of the current pitched wing. The design solution is considered proportionate to that which exists and hence scale and massing is unlikely to overtly affect the levels of light or outlook currently afforded the adjacent occupants of Number 4. To the south 'House 2' sits aside a tiled roofscape and unknown elevation treatment (due to high hedging on the common border). The bulk and massing would not affect the outlook or any light levels due to the blank roofscape and acceptable height of the neighbours maintained hedging.

Highway, Parking and Access -

'House 1' will utilise the existing garage, drive and highway access and hence the arrangement will not change the 'status quo'. The Authority's Highway Department raise no concern in regard to utilising this established arrangement and the level of parking is considered inline with policy guidance.

'House 2' proposes driveway and garage parking via a new access off Whidborne Avenue. The level of parking and manoeuvring arrangement is considered acceptable for the dwelling and the Authority's Highway Department do not oppose the ambition of the new access as the sightlines onto the highway are beyond that outlined in guidance. Secondary advice does advise that the gate treatment should be splayed in order to offer improved visibility of vehicles as they exit the site and pass over the public footpath. This detail could be achieved via planning condition.

S106/CIL -

The application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and

subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay, in order to make the development acceptable in planning terms.

In this instance, the SPD indicates that a financial contribution will be required. A calculation is based on the type and size of development proposed and including relevant mitigation. The suggested sums are outlined below:

FINANCIAL CONTRIBUTION:

Waste Management	£ 50
Sustainable Transport	£3610
Lifelong Learning	£ 470
Greenspace & Recreation	£2370
Education	£1660

TOTAL FOR DEVELOPMENT: £8160 (+ legal fees approx £500)

(or option for 5% Discount for early payment, equating to £7752 payable as an up-front payment)

Conclusions

The fundamental principle of sub-division to form two dwellings is considered acceptable as the plot is considered to have the area and natural frontage to comfortably sit such an arrangement.

The scale and design of the proposed dwellings sits comfortably with the genre of redevelopment proposals in the area for clean-lined 'marine' inspired properties.

Local amenity levels appear protected through stepped building lines and condition-led restrictions that would remove or limit overlooking and loss of privacy.

Highway safety for all users is protected by offering two safe access points with on site parking at a level that should negate any additional pressure for on-street parking (which is however low in this area).

All matters considered the scheme is considered to sit comfortably with local policy guidance and national guidance for the presumption in favour of sustainable development (that replaces poor design with good design, improves conditions in which people live, and widens the choice of high quality homes).

Proposed Headers for Conditions:

- Confirmation of levels
- Details on cladding, glazing, reveals (and the suchlike) prior to commencement
- SUDS details
- Removal of Permitted Development Rights
- Provision (and maintenance thereafter) of parking facilities prior to occupation
- All upper floor rear-facing windows (excluding House 1 bedroom 3) to be fixed and obscure glazed and maintained as such at all times thereafter
- Balcony screening to be fixed prior to occupation and maintained at all times thereafter
- Revised entrance detail to include a splay for added visibility

Relevant Policies

BES	Built environment strategy
BE1	Design of new development
HS	Housing Strategy
H4	Conversion and sub-division into flats
H9	Layout, and design and community aspects
H15	House extensions
CF6	Community infrastructure contributions
W7	Development and waste recycling facilities
T25	Car parking in new development
T26	Access from development on to the highway

Agenda Item 6

Application Number

P/2012/0767

Site Address

47 Parkhill Road
Torquay
Devon
TQ1 2AR

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Description

Proposed demolition of existing dwelling and construction of 5 new terrace houses with parking.

Executive Summary/Key Outcomes

This application involves the provision of a terrace of 5 dwelling houses with a basement car park for 10 cars on the site of an existing single family dwelling and garden. It occupies a prominent location overlooking Torquay Harbour and is a key site in terms of the character and appearance of the Torquay Harbour Conservation Area.

A scheme for 6 terrace units of a different design on the site was recently withdrawn as it was considered to be overbearing and lacking in contextual sensitivity. The withdrawn scheme, whilst considered to be acceptable in principle by the DRP raised an objection from English Heritage.

The reduction in the numbers of units coupled with a revised design to the scheme has secured a better relationship with adjacent buildings and results in a scheme that is considered to be visually acceptable and less dominating on the character of the harbourside. The roofscape of the terrace takes a mono-pitch form as opposed to a flat roofed approach and Members' views on this detailed element of the scheme in particular would be welcomed.

There are amenity concerns which, whilst reduced from that in the withdrawn scheme still require clarification. This is to be updated at the meeting as more detailed cross sections are needed of the access to the basement car park and the plinth to the building.

Recommendation

Site Visit, Conditional Approval; Subject to: 1) confirmation in relation to geological stability; 2) the concerns in relation to the basement car park and plinth being resolved; 3) more detailed information in relation to key features and agreement over the approach to the roofscape (mono-pitch or flat roof with overhang); 4) a SUDS scheme being agreed; 5) suitable conditions to be

delegated to the Executive Head of Spatial Planning, and 6) the conclusion of a S106 agreement to secure community infrastructure contributions as detailed in the body of the report to be delegated to the Executive Head of Spatial Planning subject to the agreement being signed within 3 months of the date of the committee meeting.

Site Details

The site comprises an existing 2 storey domestic property set in a spacious garden overlooking Torquay Harbour. The extent of the garden space comprises an important feature in the overall character and appearance of the Torquay Harbour Conservation Area. The garden is bounded to the rear on Parkhill Road by a typical limestone retaining wall.

Parking is provided in a double garage accessed from Parkhill Road. The existing building on the site is in a dilapidated condition, of a post war suburban appearance and was built following bomb damage in the Second World War.

In terms of context, the site sits above the buildings that front the Harbour side and alongside what was, prior to bomb damage, an impressive Regency terrace. In its original form this comprised a 'bookend' terrace. The quality of this has been somewhat compromised by more recent redevelopment comprising a three storey end of terrace unit which does not relate well to the parent terrace in terms of scale or appearance and by the post war redevelopment of the application site.

Detailed Proposals

The application is a detailed submission for the demolition of the existing property and its replacement with a terrace of 5 3-bed dwellings with basement car parking for 10 cars accessed by a ramp from Parkhill Road.

Summary Of Consultation Responses

English Heritage: Objected to the previous withdrawn scheme on the site considering it to be out of character and overbearing. They have been involved in discussions to try and find a more suitable solution. Their detailed comments are awaited.

Drainage: Requires sustainable drainage details before consent is granted.

Highways: Consider that given its location close to the Town centre 5 car parking spaces would be adequate particularly as it is not demonstrated that the basement car park layout is practical for this number of vehicles proposed.

Conservation Officer: Requires large scale details of key features of the buildings before consent is issued.

Design Review Panel: Considered the original withdrawn submission on the site at their meeting of the 4thh November 2011. Their comments in summary were that the scale of development was likely to prove acceptable subject to further refinement of the elevations, an alternative more 'celebratory' approach to the southern elevation, provision of a communal managed garden, reconsideration of the roof terraces and further thought about handling waste vehicular and pedestrian movements on a steeply sloping site. They have not considered this revised scheme.

Summary Of Representations

The following objections and observations have been received in respect of this latest scheme (4 letters received in objection, 1 in support).

- Adverse impact on amenity from overlooking/ overbearing impact.
- Adverse impact on amenity arising from ramped access to car park- its height and location adjacent to the flank wall of No 45 Parkhill Road and from height and location of plinth.
- The accuracy of the plans relating to the ramp and plinth questioned and cross sections through it requested.
- Too many units leading to traffic problems and an unsympathetic form of development.
- Question the sites capacity to accommodate the extent of rebuilding considering the history of instability and presence of rock anchors.

Relevant Planning History

P/2011/1385 Construction of 6 dwellings: W/drawn 1.08.12

Key Issues/Material Considerations

The key issues in respect of this application are

1. Design
2. Scale of development.
3. Amenity
4. Highways
5. Structural Integrity of the site

Each of these matters will be addressed in turn.

1. Design/ Scale of Development

The site is very prominent both in short views across the harbour and in longer views from the approach to the town. The site is perceived mainly as a landscape

element in terms of the harbour townscape as the existing building occupies only a small part of the site and is only 2 stories in height. The redevelopment of this site has the potential to have a profound impact on the character of the harbour and for this reason it is important that the replacement scheme is appropriate in terms of size and design and sits comfortably within its context.

The original submission on the site comprised 6 terrace dwellings in a heavily glazed rather monolithic design that extended across the whole garden area. This failed to relate to the character of surrounding buildings, particularly the character of the adjacent terrace, it dominated the plot and also generated concern from neighbours to the site in terms of the extent of overlooking and loss of privacy.

Discussions have since taken place with the applicant in an attempt to identify a reduced scale of development on the site and a more appropriate design response that relates more sympathetically to local context.

A detailed appraisal of the local urban form and character was carried out and this informed a design approach that moved away from a solid block of building to one that has sought to pick up the rhythm of the adjacent terrace and through design devices to reduce its perceived mass.

The number of units has reduced to 5 and whilst this does not represent a significant reduction in terms of the mass of building, the slight reduction in height and breadth and the revised design, which breaks down the mass of the terrace, does achieve a less overbearing form of building. Furthermore, additional space is retained around the building which reduces the overall dominance of the replacement scheme in terms of important public views of the harbourside.

The previous use of extensive glazing has been superseded by a better solid to void relationship that sits more comfortably with the adjacent terrace. This involves the use of rendered elevations with recessed glazed elements that create a clear break between the individual plots. A more defined 'plinth' has been created. This is to be constructed in natural limestone and will appear as a garden rather than a building element, which again reduces the apparent mass of the building.

A set back series of mono pitched roofs results in a rhythmic roof form that will further increase the terrace rhythm. However, there continues to be discussion as to whether the new roof form is preferable to an overhung flat roofed approach.

The end elevation of the terrace will be very prominent. The DRP recommended that this should be more 'celebrated' and opened up to achieve views. This has presented design difficulties as it needs to have a consistent relationship with the main elevation. It is thought that the current submission successfully addresses

the DRP requirement yet achieves an acceptable follow through from the design of the main terrace elevation.

It is thought that the reduction in size of the replacement building coupled with the less monolithic design approach overcomes concerns about the dominance of the scheme on the site and thus on the character of the harbourside.

There is however, a vital need for the detail of the scheme to be fully realised and it needs to be secured before planning permission is issued and not left to be resolved via condition.

Amenity

In terms of amenity, there are concerns arising from overlooking/loss of privacy, from the impact of the plinth and from access to the basement car park.

The reduction in the level of glazing has reduced the impact on amenity. The previous scheme also contained balconies and a flat roof area that was shown to be accessible for sitting out purposes. Whilst this scheme includes balconies and sitting out areas, they are reduced and not considered to be over intrusive.

The arrangement for basement car parking does require a ramp to be constructed from Parkhill Road to a point adjacent to and abutting the flank wall of No. 45 Parkhill Road. Its use; if by up to 10 cars, could have an impact on the amenity of this dwelling. The gradient of the access to the basement car park and its impact requires clarification through detailed cross sections laterally and horizontally through the structure. There is some concern that the gradient will be too severe to be workable or will require more intrusive earthworks than apparent from the plans thus far submitted.

In terms of the plinth, which structurally forms part of the basement car park, there is some dispute over the height and level that it achieves in relation to adjacent properties. The applicant has been asked to clarify this and the matter will be updated at the Meeting.

Highways

Highways have commented that the site is overprovided for in terms of car parking, given its proximity to the town centre. There are unresolved matters in relation to the access to the car park, as explained above. It is anticipated that this matter will have to be updated at the meeting once further information has been submitted about the exact size, position and gradient of the ramped access. Highways recommend that the sustainable transport contribution is allocated towards bus provision.

Structural integrity of the site

Concerns have been raised by neighbours about the geological stability of the site as there has been instability in the past and rock anchors have been used to

prevent further rock falls. There have also been comments made about the stability of the limestone retaining wall as there is much excavation proposed to create a base for the building. The Councils Structures section have checked this aspect of the scheme and consider that geological studies should be commissioned to ensure that the development can be carried out without harm arising. This matter can be dealt with by way of condition.

Drainage

Due to concerns about exacerbating local flooding problems, any additional surface water discharge needs to be mitigated on site through SUDS. Due to the restricted space available for such measures and the potentially impermeable nature of the site, details of this have been requested prior to consent being granted.

S106/CIL -

Community Infrastructure Contributions in line with the approved SPD are required. These amount to:

Waste	£ 250
Sustainable Transport	£13,550
Education	£ 6200
Lifelong learning	£ 2050
Greenspace	£11,850

Conclusions

This is a prominent and sensitive site with the potential to have a profound impact on the character and appearance of the Torquay Harbour Conservation Area.

The DRP considered the 'withdrawn' scheme and did not raise any fundamental concerns in relation to size or extent of plot coverage. English Heritage, who is a statutory consultee did however object to that scheme on the basis of its size, its undue dominance and its lack of contextual cohesion.

This revised scheme for 5 units has sought to overcome the concerns about overbearing impact and design. It is considered that the reduction in the extent of the proposed building envelope and the design devices to reduce the perceived mass have resulted in a form and appearance of building that fits more comfortably in its surroundings and can be accommodated without dominating the site.

There is a need for more detailed information in relation to the ramped access and plinth which it is hoped can be supplied in time to allow Members to be updated at the meeting.

Relevant Policies

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Agenda Item 7

Application Number

P/2012/0737

Site Address

25 Courtland Road
Torquay
Devon
TQ2 6JU

Case Officer

Mr Alexis Moran

Ward

Cockington With Chelston

Description

Change of use of flat 2 to office/staff room/meeting rooms for the nursery

Executive Summary/Key Outcomes

The application seeks permission for a change of use from an existing flat to a staff room and training room in association with the existing nursery.

The proposal is not considered to have a significant impact on adjacent properties as the existing use as a flat is likely to be more intense in terms of activity, noise and parking than the proposed use.

It is not deemed that the proposed change of use would result in any further congestion in the surrounding area, the number of staff employed by the nursery is to remain the same and there is not any significant intensification of the site. The loss of the flat is likely to result in fewer vehicle movements on the site.

Recommendation

Approval.

Site Details

Large post war semi detached property set well back from the road frontage in large irregular shaped plot. The property is in use as a nursery.

Detailed Proposals

The application seeks permission for the change of use of flat 2 to an office which can be used as a staff room and meeting rooms in connection with the existing nursery.

Summary Of Consultation Responses

None

Summary Of Representations

A total of four objections were received including a petition. The main issues raised in the objections related to traffic, noise and parking. These are reproduced at Page T.201.

Two letters of support were received from the applicant which countered the issues raised by the objectors.

As a result of these representations a site review meeting was undertaken on the 23rd of August at which point it was decided that the application should go before the October Development Management Committee.

Relevant Planning History

P/2004/0141	Alterations and formation of second vehicular entrance off Burleigh Road with parking and single storey extension to provide new baby unit. Approved 18/3/2004.
P/1991/1653	Use as day care centre for children with staff accommodation. Approved 5/3/1992.
P/1993/0205	Retention of use as day care centre for children with staff accommodation. Approved 16/4/1993.

Key Issues/Material Considerations

The key issues to consider in relation to this application would be whether the application would impact adversely on adjacent properties or cause serious congestion.

As the flat is to be converted to an administrative use it is not deemed that the proposal would have an adverse impact on adjacent properties. It is considered that the existing use as a flat is likely to be more intense in terms of activity, noise and parking than the proposed use.

It is not deemed that the proposed change of use would result in any further congestion in the surrounding area, the number of staff is to remain the same and the loss of the flat is likely to result in fewer vehicle movements on the site.

Conclusions

The proposed change of use is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

01. The change of use to Flat 2, hereby approved, shall be for ancillary staff accommodation for purposes related to the nursery and no other use.

Reason: In the interests of the amenities of the area and in accordance with the requirements of policy CF1 of the saved adopted Torbay Local Plan 1995-2011

Informative(s)

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003.

The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

CF1

Relevant Policies

CF1 Provision of new and improved community
BES Built Environment Strategy
BES Built Environment Strategy

Agenda Item 8

Application Number

P/2012/0841

Site Address

Wilsbrook
77 Avenue Road
Torquay
Devon
TQ2 5LL

Case Officer

Miss Alix Cathcart

Ward

Tormohun

Description

Change of use from guest house to (C3) dwelling house - retrospective

Executive Summary:

This proposal meets the criteria of Policy TU6 for the loss of holiday accommodation and the location is suitable for the residential use proposed.

Recommendation:

Approval.

Site Details

Semi-detached two-storey house on the east side of Avenue Road, lying within the Torre Conservation Area.

The applicant is already occupying the property as a single dwelling house; the application is therefore retrospective and follows the involvement of the Planning Investigation Officer.

Detailed Proposals:

Change of use from guest house to residential use falling within Class C3 Dwelling Houses.

At the time of preparation of this report, details are awaited supporting the case for the loss of holiday accommodation, as required by Policy TU6.

Consultation Responses:

Natural Environment: The financial contribution would be used for the enhancement and improvement of Upton Park and the facilities available therein.

Representations:

No objections

Relevant Planning History:

None found.

Key Issues/Material Considerations:

Loss of tourist accommodation within a Principal Holiday Accommodation Area is considered against the document "Revised Guidance on the Interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan Approved March 2010". The application site is shown within a Green area where, for small guest houses with up to 10 bedrooms, residential use is likely to be allowed.

It is expected that when the criteria of Policy TU6 have been addressed by the applicant, it will be possible to accept that the loss of previous use would not harm the holiday character and atmosphere of this PHAA.

The application site lies in a mixed use area of predominantly residential uses, including flats and institutional accommodation, and some commercial uses. The building would originally have been built as a house. The internal accommodation is suited to the proposed use. There is little outside garden area at the rear, but ample parking provision at the front. There would be no material detriment to the privacy or amenities of the neighbouring occupiers and the proposed use is considered entirely appropriate for the property and its location.

Section 106/CIL: The application proposal has been assessed against the provision of the document "Planning Contributions and Affordable Housing, Supplementary Document – Update 3, Economic Recovery Measures April 2011". A financial contribution would be payable in respect of the proposed new use, as set out below. No contribution would be payable in respect of Sustainable Transport as use, in this regard, as a single dwelling would be significantly less than its use as a guest house. Mitigation has been applied at a rate of 50% in respect of Greenspace and Recreation, in recognition of the property's former use. The contribution has been calculated on the basis that the dwelling would be in the category "Larger Properties 4+ bedrooms, in excess of 120sq m."

Waste Management	£ 50
Lifelong Learning	£ 470
Greenspace & Recreation	£2370 x 50% = £1185
TOTAL	£1705

The discount for early payment would be £85.00.

Conclusions

Provided that supporting details are provided which support the case for the loss of holiday accommodation, the proposal will be considered to reflect Local Plan Policy criteria. In that case, the application will be recommended for approval, subject to provision being made, prior to the issuing of a decision, for the

payment of the financial contribution due under the Council's policy.

Informative(s)

01. Summary of reasons for the grant of permission: This proposal meets Local Plan policy criteria because the use proposed is an appropriate one in this location.

Relevant Policies

TU6 Principal Holiday Accommodation Areas

Application Number

P/2012/0183

Site Address

Victoria Park
Torquay Road
Paignton
Devon

Case Officer

Mrs Helen Addison

Ward

Roundham With Hyde

Description

Retention and change of use of the existing youth service building with a childcare facility (Class D1)

Executive Summary/Key Outcomes

The application is for a change of use of the existing single storey building from a Youth Centre to a Children's Centre. It is understood that a number of alternative options (including Parkfield, Paignton Library and Curledge Street School) were looked at for the best site to house the Paignton central area Children's Centre, however, the application site appears to be well suited to the proposed use in terms of its location.

The original consent for the building in Victoria Park was for use as a youth service building and the consent was time limited to expire in August 2014, with the building to be removed and the ground to be made good. Whilst the youth service use has now moved to Parkfield, the building remains on the site.

The Children's Centre would make continued use of the building in the intervening period to 2014. However, the application seeks permission to retain the building permanently in use as a Children's Centre thereafter and as such to remove the temporary permission.

However, the external appearance of the building falls short of the standard normally expected. The building has a temporary appearance and it was envisaged when permission was granted for use as a youth service building, that the building would be removed once the Parkfield facility was complete. As such it would be appropriate for the consent to be limited to the original time period for the building to be on the site. This would provide time for further negotiations over the future of the Children's Centre and the building at Victoria Park. Alternatives, including the re-cladding of the building to improve its appearance have been explored but have proved thus far to be unviable for the Children's Centre project.

Recommendation

Committee Site Visit; Temporary planning permission be granted until 31.8.14 with conditions (as end of report).

Site Details

The application site relates to an area in Victoria Park close to the tennis courts. It is to the rear of the former library and at the rear of properties in Polsham Park. The existing building on the site replaced a former changing rooms and was approved for use on a temporary basis as a youth service building. There is a mature tree screen adjacent to the site along the boundary with the properties in Polsham Park. The site is visible in views across the park from Torquay Road and Hyde Road.

In the Torbay Local Plan 1995-2011 the site is allocated as an Urban Landscape Protection Area (Policy L5). The boundary of the Polsham Conservation Area runs along the boundary of the park with properties in Polsham Park. The application site is not in the Conservation Area.

Detailed Proposals

The existing single storey building on the site has temporary planning permission until 31.8.14 for use as a youth centre. This is a retrospective application to retain the building and for a change of use to a Children's Centre facility. A 1 metre high timber picket fence to define the boundary of the site and ensure that dogs do not enter the site has been constructed. In the design and access statement it is advised that some external ancillary equipment maybe installed such as a buggy store, a fixed canopy, and in time the provision of allotments to further enhance the services offered as a children's centre. It is suggested the provision of these could be addressed by condition.

It is proposed that the Children's Centre would be a drop in style centre for families offering a variety of sessions including weaning sessions, breast feeding support groups, parental assistance etc. The centre would open six days a week with the core hours being;

Monday	9am to 3pm
Tuesday	9am to 6pm
Wednesday	9am to 5pm
Thursday	9am to 5pm (occasionally until 7pm)
Friday	9am to 6pm
Saturday	9am to 12pm

In addition the centre would have occasional group sessions over these core hours but these would be dependent upon demand.

Summary Of Consultation Responses

Highways Officer: No objection
Arboricultural Officer: No objection.

Summary Of Representations

None received.

Relevant Planning History

P/2009/0557/R3 Remove disused timber changing rooms and replace with steel youth service building temporary consent until 31.8.14 granted 17.9.09

Key Issues/Material Considerations

The main issues are the principle of the proposed use in this location, whether permanent planning permission should be granted for this building and any impact on residential amenity.

Principle and Planning Policy -

The proposed use would be consistent with the objectives of Policy CF1 in the Torbay Local Plan 1995-2011 which supports the provision of new and improved community facilities. The location of the proposed children's centre is sustainable by reason of its central location within Paignton and its proximity to the town centre. It has good accessibility by public transport. The principle of providing a children's centre would make a positive contribution to the community by providing support and information for families with young children. Paragraph 69 in the NPPF recognises that the planning system can play an important role in creating healthy inclusive communities.

Should permanent be granted for the building?

Policy L5 in the Torbay Local Plan 1995-2011 relates to the designation of Victoria Park as an Urban Landscape Protection Area. It states that development will not be permitted "which would seriously harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment". The existing planning consent is temporary which means that in the long term the building would be removed from the site and the openness and recreational value of the park will be maintained.

It is considered that a permanent planning permission would not be consistent with the objective of this policy as the building is visible in distance views across the park from surrounding roads, and does impact on the quality of views across the park to the mature line of trees along the boundary with properties in Polsham Park.

The building is typical of a simple Portakabin building and has limited design quality and a very utilitarian appearance. It has not been designed to take into account the setting of the site and the established character of development in the surrounding area. Policies BES and BE1 in the Torbay Local Plan 1995-2011 promote a high standard of design that makes a positive contribution to local character and distinctiveness. This building fails to meet the objectives of these policies in that it has a temporary appearance that fails to enhance the appearance and character of the area. Under application reference 2009/0557 it was considered acceptable for this building to be provided on a temporary basis to provide facilities that would make a valuable contribution to the community, and because the building replaced a run down building on the site. Furthermore, it was understood that the proposed youth service use would be provided elsewhere upon the completion of the Parkfield development. This is understood to now be the case and hence this application has been submitted to find an alternative use for the building. However, it was intended that a grant of temporary consent would indicate to the applicant that permanent retention of the building on the site would be inappropriate in this prominent location within an urban landscape protection area, due to its limited design quality.

This application as submitted is for permanent consent. There are strong concerns on design grounds that this building would not be acceptable in this location on a permanent basis. Government guidance on the use of conditions in planning permissions is provided in Circular 11/95. At para. 112 it is advised that a second temporary permission should not normally be granted. It is suggested that at the end of the first permission it should be clear whether permanent permission or a refusal is the right answer. In this case as the building already has permission until August 2014 it would be appropriate for permission to be granted on the same basis, but it is not considered appropriate to extend this beyond 2014 on either a temporary or permanent basis.

Impact on neighbouring living conditions

The proposed building is sufficient distance from nearby properties not to cause any disturbance from noise within the building. The proposed hours of use are less than those previously approved, with the use ceasing earlier in the day than approved under P/2009/0557R3, therefore the proposal is not considered to impact residential amenity.

Economy -

It is stated that 22 members of staff would be associated with the Children's Centre although they would not be present at the same time, except in rare circumstances such as team meetings. Typically there would be a maximum of 8 members of staff on the site at a given time.

Closing the gap -

The provision of facilities to provide support to parents with young children will

make a valuable contribution to community health and well being.

Conclusions

In conclusion, the proposal is to change the use of an existing building that has temporary planning permission from a Youth Centre to a Children's Centre. This use would make a valuable contribution to community well being and the principle of the change of use is acceptable on a temporary basis.

However, there are concerns that the design quality of the building does not meet the objectives of Policies BE1 and BES in the Torbay Local Plan 1995-2011 that seek to encourage a high standard of design, and it would not be acceptable for the building to be retained on the site longer than the already consented period to August 2014. The proposed use of the building until this time would be acceptable, however, permanent consent would have a long term detrimental effect on the appearance and character of the area. A consent to 2014 would enable the Local Planning Authority to investigate alternative locations and options for the Children's Centre in the longer term.

Condition(s)/Reason(s)

01. The building hereby permitted shall be removed and the land restored to its former condition on or before the 31st August 2014.

Reason: To maintain control over a temporary form of development, in accordance with Policy BE1 of the Saved Adopted Torbay Local Plan 1995-2011.

02. The use of the building hereby approved shall take place between the hours of 8.30am and 7pm Monday to Saturday and not on Sundays without the prior written consent of the Local Planning Authority.

Reason: In the interests of the residential amenity of adjoining properties in accordance with Policy CF1 of the saved adopted Torbay Local Plan 1995-2011.

Relevant Policies

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Agenda Item 10

Application Number

P/2012/0859

Site Address

Paignton Community College
Waterleat Road
Paignton
Devon
TQ3 3WA

Case Officer

Mrs Helen Addison

Ward

Blatchcombe

Description

Engineering works and access improvements in connection with the construction of multi-use sports hub; amendment to opening hours - Monday to Friday 08:00 to 21.30; Saturday 08:00 to 21.30 and Sunday 08.00 to 21.30.

Executive Summary/Key Outcomes

This application is part retrospective and relates to engineering works, alterations to provide disabled access and landscaping works that were carried out during construction of the sports hub. These revisions to the approved development do not materially alter the character and appearance of the proposal and are considered to be acceptable.

The application is also to extend the opening hours of the sports hub by half an hour on a Monday to Friday until 9.30 pm. This will bring the opening hours into line with the use of the all weather outdoor sports pitch on the site.

Recommendation

Committee Site Visit; Approve with conditions (see end of report).

Site Details

The application site relates to the Sports Hub at Paignton Community College. The access to the school is from Waterleat Road. Totnes Road runs along the south eastern boundary of the site. The school buildings are located largely at the northern side of the site. On the southern part of the site an all weather sports pitch has been provided. The ground levels on the site slope down towards the south. There is some landscaping around the site, with a beach hedge along the boundary with Waterleat Road. There are views across the site from Totnes Road.

The surrounding area is in mixed use. There are residential properties in Waterleat Road. To the east there are warden controlled flats. On the opposite side of Totnes Road is the Zoo and a supermarket. There is a former garage

and residential properties adjacent to the southern boundary with Totnes Road.

In the Torbay Local Plan 1995-2011 the site is allocated as a community facility. A cycle route is shown as running along Waterleat Road and Totnes Road.

Detailed Proposals

This is a part retrospective application to regularise the development on the site and to change the opening hours of the sports hub. It is for the following;

- Revision of opening hours to Monday to Friday 8.00am to 9.30pm and Saturday and Sunday 8am to 9.30pm. This would result in an increase in opening hours of half an hour on Monday to Friday in comparison with the condition imposed on application reference 2009/1101PA.
- Provision of disabled access to the sports hub through the construction of a pedestrian footbridge from the existing car park to an upper level lobby, and the formation of an entrance lobby. (The lower level would be reached by an internal lift).
- Formation of a retaining wall to the north of the multi purpose sports hub to simplify the water proofing details associated with the construction of the north wall. This bank has been planted to minimise the requirements for maintenance. The landscaped area has been surrounded by a perimeter fence 2 metres high to prevent access to this area. A 1.1metre timber guardrail has been built adjacent to the retaining wall.
- Provision of a Tensar reinforced grass bank to the south of the sports hub to facilitate the construction of the sports floor and the south wall on the filled part of the site.
- Omission of the cantilevered fire exit route to the south of sports hub and the repositioning of the fire exit doors to the west and east elevations.
- Formation of a fire engine access to the sports hub and a maintenance access to the all weather pitches between the sports hub and the existing changing block.
- Construction of a path at a suitable gradient for disabled access from Totnes Road.
- Erection of fencing to the playground areas, which is 5 metre high chain link fencing, green coloured.
- Landscape proposals in connection with the engineering works
- Landscape proposals in connection with the all weather sports pitch.

Summary Of Consultation Responses

Arboricultural Officer: Consultation response awaited

Highways: No objection

Summary Of Representations

One letter of objection received that raises the following points;

- We already endure the noise of an electronic claxon, shouting and screaming, announcements over Tanoy, loud music, extractor/air con etc.
- This is a residential area not a commercial one
- Disturbances already exceed the time restraints on a regular basis after 21:00
- We are vehemently against extending opening hours

Comprehensive submission by the applicant in support of the proposal which advises that the change in usage time will help the sports hub to be sustainable keeping the hire of the court to a minimal cost and allowing maximum community usage. Petition in support of proposal received and letters in support from Devon Lawn Tennis Association, Circus and Barton Acorn Badminton Club, Torbay Holiday Sport Programme, Netball South West, Devon Competition Manager Team, Active Devon, Community Sports Network, Torbay Care Trust, Torbay YMCA Tigers Basketball Club, Torbay Tornado netball club and Torbay Sport Partnership.

All these representations are copied at Page P.202.

Relevant Planning History

Extensive planning history, most recent applications are:

P/2011/1111	Installation of solar panels on the roof(s) of building(s) Approved 10.11.11
P/2009/0665	Formation of new plant room and store. Approved 27/8/2009.
P/2008/1380/PA	Alterations to window elevation of extension to sports hall changing rooms. Approved 18/12/2008.
P/2007/1593	Ground and first floor extension to existing sports hall changing rooms. Approved 2/11/2007.
P/2006/0200	Formation of fitness centre, extension of gymnasium, all weather playing pitch with floodlighting, new vehicular entrance from Waterleat Road. Approved 18/7/2007.

The following application was withdrawn from the system and was not determined, however, the committee made a decision to approve the application

subject to further work on mitigation for the glare of the building and subject to reduced opening hours on Sunday to compensate for the additional 30mins during the week.

P/2010/0763 Engineering works and access improvements in connection with the construction of multi- use sports hub; amendment to opening hours Monday-Friday 08.00am -9.30pm; Saturday and Sunday 8.00am -9.30pm; Construction of 7 metre high anti glare screen adjacent to Beech hedge application.
Withdrawn.

P/2009/1101 Formation of multi use sports hub approved 11.12.09

Key Issues/Material Considerations

The main issues are the impact of the proposed works on the visual amenity of the area, the effect of extending the opening hours on the amenity of nearby residents and whether the landscape proposals are acceptable.

Principle and Planning Policy -

Policies RS, R1, CF9 and CF10 in the Torbay Local Plan 1995-2011 support the provision of new recreation and school facilities. The provision of the sports hub on the site has provided extensive high quality sports facilities for both the school and the community who have access to the hub outside school hours. There are acknowledged benefits to the health and well being resulting from sports activity. The NPPF recognises the importance of social interaction and creating healthy, inclusive communities at para.69.

Environmental Enhancement -

Policies BES and BE1 in the Torbay Local Plan 1995-2011 require new development to conserve or enhance the built environment. Due to the levels on the site the retaining wall and tensar bank are largely obscured in view from the surrounding area. They are ancillary to the building and do not change the overall character of the development. A number of alterations to windows and doors on the building have been made, which does not affect the overall appearance of the building. The deletion of the cantilevered fire escape from the south elevation resulted in less visual clutter and constituted an improvement. The scale of the new entrance lobby is ancillary to the main building. For these reasons it is considered that the alterations do not have an adverse impact on the amenity of the area.

The Arboricultural Officers comments are awaited on the landscape scheme.

Amenity of nearby residents -

The application includes a request that the opening hours be extended by half an hour Monday to Friday to bring the use of the building in line with the use of the all weather sports pitch. This would mean activity associated with the sports hub being carried out for an additional 30 minutes in the evening. The issue is

whether this would be acceptable for local residents or would harm their amenity. It was previously determined by the committee that this would be acceptable if proportionate mitigation could be achieved by reducing the opening hours on a Sunday. However, the applicant maintains the business need for Sunday opening and has included additional information in this latest application in respect of the operation of the sports facility.

Given the additional submission justifying the extension of the opening hours and given that the outdoor all weather pitch can already be used until 09:30 and there would be activity associated with this it would be difficult to argue that the additional activity proposed create a level of noise and disturbance that would be unacceptable in the area. A representation has been received and is copied for members, however, it is still considered that the additional 30 minutes is unlikely to significantly add to any impact of the development on residential living conditions.

Accessibility -

The highway officer has not raised an objection to the proposal. Previously he has advised that no general access to the site should be permitted from Totnes Road on the grounds of highway safety. The provision of emergency access would be acceptable provided it is for this use only. This can be controlled by means of a condition.

The proposal includes the provision of 4 disabled parking bays and drop off point at the northern side of the building.

Conclusions

In conclusion, the provision of new sports facilities is supported by Policies RS, R1, CF9 and CF10 in the Torbay Local Plan 1995-2011. The engineering revisions and amendments to the appearance of the sports hub have not changed the overall character and appearance of the development. The extension to the opening hours is relatively minor and is consistent with the approved use of the multi use sports pitch.

Condition(s)/Reason(s)

01. All the conditions on application reference 2009/1101PA shall apply to the development of the site are not varied by this grant of planning permission with the exception of condition number 6 which is superseded.

Reason: For the avoidance of doubt.

02. No vehicular access to the development from Totnes Road shall be permitted at any time, except for use by emergency vehicles.

Reason: In the interests of highway safety, in accordance with Policy T26 of the saved Torbay Local Plan 1995-2011.

03. The use of the sports hub hereby approved shall take place between 8 am and 9.30pm Monday to Friday and 8am to 9.30pm on Saturday, Sunday and Bank Holidays and at no other time unless otherwise agreed in writing by the Local Planning Authority.

Reason; In the interests of the amenity of the surrounding area, in accordance with Policies R1 and CF10 of the saved Torbay Local Plan 1995-2011.

Relevant Policies

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Agenda Item 11

Application Number

P/2012/0869

Site Address

Land To The East Of Occombe Farm Car Park
Preston Down Road
Preston
Paignton
TQ3 1RN

Case Officer

Matt Diamond

Ward

Preston

Description

Vehicle entry and erection of packing shed, glasshouse and poly-tunnel and horticultural trail ground

Executive Summary/Key Outcomes

The application is to form a horticultural trial ground on land to the east of Occombe Farm, Paignton, with development of ancillary buildings, structures, access and parking. The intention is that Suttons Seeds will relocate its existing trial grounds to the site, which has its head office in Paignton. Sutton Seeds is the largest foreign investor in Torbay and supplies flower, vegetable seeds and other horticultural products.

The scheme would generate approximately 10 full-time jobs and compliment the neighbouring use at Occombe Farm. The proposed development is acceptable in land use terms, although it would necessitate the removal of two sections of species-rich hedgerow (one a Devon hedgebank) to create the access points. However, overall biodiversity would be increased, including through the provision of replacement hedgerow. A number of other technical issues can be dealt with via conditions.

There have been no objections to the proposal. 1 day remains of the consultation period, but it is not anticipated there will be any objections in this time.

Recommendation

Conditional Approval; with conditions to be delegated to the Executive Head of Spatial Planning (a schedule of condition headings is provided at the end of this report, but more conditions might be required).

Site Details

The site is located on the edge of Paignton to the east of Occombe Farm. The area of the application site is 0.5ha, although this only comprises the parts of the site that require planning permission. The whole site is 3.76ha and includes two agricultural fields.

The site is bounded by a public footpath and beyond this Cockington Road to the north, woodland to the east, agricultural fields to the south and an unadopted lane to the west. On the other side of the lane to the west is the car park to Occombe Farm and further to the south the lane connects to Preston Down Road, which links to the ring road. Preston Down Road is also a bus route.

The site is located in the Countryside Zone and in an Area of Great Landscape Value (AGLV), as defined by the Adopted Torbay Local Plan 1995-2011. Since 2005 the site has also been part of Occombe Farm & Scadson Woods Local Nature Reserve (LNR). To the north on the other side of Cockington Road is Occombe Meadows Site of Special Scientific Interest (SSSI). Cockington Road is defined as a cycle route in the Local Plan and connects to Cockington Country Park. Beyond the woodland to the southeast is housing in Templer Road on the edge of Paignton.

There are hedgerows around the edge of the site and another hedgerow separates the two fields. The hedgerows include a variety of trees and there is a linear group of Monterey Pine trees along the southern edge of the west field, which are of mixed age and good quality.

Planning permission was granted in 2002 to construct new farm buildings and a visitor centre at Occombe Farm. Revisions to the scheme were permitted in 2004 to provide a new farm shop, café and educational centre. Further additional development was permitted in 2007, 2008, 2009 and 2011.

Detailed Proposals

The proposal is to form a horticultural trial ground with ancillary buildings, structures, access and parking. The intention is that Suttons Seeds will relocate its existing trial grounds at Ipplepen to the site. Suttons Seeds supplies flower, vegetable seeds and other horticultural products. Their main premises are in Paignton.

The use of the land would remain agricultural. The ancillary elements that require planning permission are to be located to the south of the west field and comprise:

- A storage and packing shed (area: 12m x 36.58m = 439 sq m; height: 5.2m)
- 2 no. polytunnels (total area: 12.8m x 40m = 512 sq m; height: 3.7m)
- Glasshouse (area: 12.8m x 35m = 448 sq m; height: 4.3m)
- Office/WC Portakabin (area: 2.9m x 9.5m = 28 sq m; height: 2.4m)
- Refrigeration unit (area: 2.4m x 14.5m = 35 sq m; height: 2.4m)
- Reservoir/pond – mains and grey water fed (area: 15m x 30m = 450 sq m; height/depth: 3m; volume: 990,000 litres)
- Reservoir/water tank on concrete base – grey water fed from shed (diameter: 5m; volume: 5,000 litres)
- Bunded oil tank (base area: 2.4m x 3.2m)

- Access drive, turning head and parking for 7 cars
- Gated entrance onto lane

The storage and packing shed would be a simple portal frame building with timber cladding. Doors at each gable end would provide access for machinery. The glasshouse would be used for growing and have a permanent foundation base. The polytunnels are a more temporary form of enclosure to protect tender plants. Images of these building types are shown in the Design and Access Statement.

The office/WC Portakabin would be brown with a trellis and climbing plants on the more visible north elevation. The refrigeration unit would be galvanised steel painted dark brown. The oil tank would be dark green. These colours help these elements to blend into the landscape.

There would be a narrow (0.7m) concrete track for trolley access adjacent to the storage and packing shed; the access drive, turning head and parking area would be made from permeable hardcore/scalplings. The reservoir/pond would be butyl lined and store rain water. Together with the much smaller reservoir/water tank that would collect surface water runoff from the storage and packing shed, this water would be used to irrigate the trial grounds, as well as plants in the polytunnels and glasshouse. The reservoir/pond would be contained by an earth bund, which would be landscaped to limit its visibility, and surrounded by a 1.2m high post and rail fence. Only in the event of long dry spells would mains water be used from a stand pipe on the site.

The remainder of the west field would be used as stand out beds and a display area. The east field would be used for crop growing. Details on the company website indicate this would be for growing flower and vegetable seed varieties. The trials would be grown semi-organically.

A new 6.65m wide access would be created onto the unadopted lane by removing part of the hedgerow to the west; a 3.5m wide access would also be created between the two fields again by removing part of the hedgerow. There would be limited public access to the site and the only vehicular access would result from staff and deliveries. The majority of hedgerow and trees around the site would be retained. Replacement hedgerow would also be planted.

The oil tank would provide heating and would be bunded to protect the surrounding environment. Foul drainage would be to a septic tank close to the entrance to allow for easy collection.

Balanced cut and fill would be used to alter the ground levels across parts of the site incorporating buildings and the access drive/parking area. This would have the effect of sinking the buildings into the landscape, which would be screened by the hedgerow and trees along the south boundary. The small embankment in

front of the parking area would be landscaped to screen parked vehicles.

A number of ecological enhancements are proposed, including three bat boxes on the rear elevation of the storage and packing shed. A deer proof fence would be erected along the north boundary.

Summary Of Consultation Responses

Re-produced at Page P.200.

Engineering: Drainage: A number of points were raised on the lack of detailed information regarding how surface water drainage will be dealt with and the design of the reservoir. Following the submission of further information from the applicant, agreed to a planning condition requiring detailed information prior to commencement on the design of the drainage system and how it caters for the 1 in 100 year critical rainfall event plus an allowance for climate change, the design of the reservoir and how floodwater/overland flow will be dealt with should the reservoir overtop.

Natural England: Satisfied that there is not likely to be an adverse effect on Occombe Site of Special Scientific Interest (SSSI). The Council should encourage opportunities to incorporate biodiversity in and around the development in accordance with the NPPF. If the proposal is on or adjacent to a local wildlife site, the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site before determining the application.

Torbay Development Agency: Supports the proposal and had the following comments:

- The applicant for this planning application, Sutton Seeds, is the largest foreign investor in Torbay. This application and development has come about following an aftercare visit by the TDA to consider how the needs of this company can be better met, in order to strengthen their relationship with Torbay. The company is a major employer for Torbay and it is important for us to keep them in the locality, rather than risk them relocating back to France.
- The development will create an opportunity to strengthen links with Occombe Farm, as a by-product of the vegetable trialling programme, which will take place at the new site, will be large quantities of seasonable vegetables which can be used by Occombe Farm's cooking school.
- There will be marketing opportunities for Torbay as a location and also for Occombe Farm as the applicants make over 20 million positive communications with members of the public during each trading year.
- The development will be an opportunity to retain and improve employment

prospects for the area.

- The proposals will be in keeping with other developments in the area, as Occombe Farm have a similar site which is situated adjacent to the one proposed.
- Sutton Seeds are offering 500 fruit trees which can be used to create a Community orchard which will benefit the local community and they are also offering to provide 2,000 'growing kits' for schools which would also be supported by events which will give children an opportunity to learn about flowers, vegetables, perennials and so on and they would look to continue this type of involvement in the future.
- The application proposes no change of use to the site.
- According to the phase 1 habitat survey report, there are no significant species and or habitats on this site.
- The development has the political support of the Ward Councillors for the area and is consistent with the Council's economic strategy.

Highways & Engineering: No objection in principle. The access lane is private, so should be checked that access over it is permitted. The surfacing of the lane is unsuitable for larger vehicles, so request this is upgraded. Require a condition stating that only the access from the lane into Preston Down Road should be used for accessing the public highway as the access onto Cockington Road has poor visibility in both directions.

Arboricultural Officer: The main arboricultural constraint upon the site is the mixed age linear group of Monterey Pine orientated east west at the south. There is no overlay of the trees root protection area upon the proposed layout plans, restricting detailed consideration of their relationship with the proposed buildings. The buildings will experience a present and increasing reduction in direct sunlight from the trees. Monterey Pine trees shed large masses of heavy cones which may affect the buildings. A pruning regime has been suggested in the application – minimal works are acceptable, but extensive tree surgery works would be negative to visual amenity. The buildings should be resited slightly to the north with minor tree works to allow an acceptable relationship between the trees and the buildings. Agreement is found with all other arboricultural aspects of the scheme; a tree protection plan will be necessary prior to commencement of development.

The following condition is recommended:

The plans and methodologies in the arboricultural report are enacted in their entirety throughout construction, subject to the inclusion of a Tree Protection

Plan.

Strategic Transportation: No response.

Torbay Coast & Countryside Trust: Supportive of the proposals stating they are in keeping with the range of agricultural and horticultural activity at Occombe Farm.

Torbay Local Access Forum: Stated it has no objection.

Community Safety Team (Environmental Protection): Notes the refrigeration unit might emit noise, therefore recommends the following condition:

The applicant shall submit a noise impact assessment carried out by a suitably qualified person of the existing noise climate within the area likely to be affected by noise produced by the proposed development. The assessment shall identify all residential and commercial properties likely to be affected by such noise and provide predictions of the noise impact of the proposed development on these properties.

Also recommends the following condition in relation to vehicle movement:

Delivery and collection vehicle movements should be restricted to between 0730 and 1800.

No comments on the oil tank or 'semi-organic' growing.

Building Control: Reviewed the application with reference to: contaminated land; geotechnical issues; fire requirements; radon gas/methane areas; drainage/solid waste storage; and disabled provisions. There were no comments or requirements except the following: B5 fire fighting access is available; the site is within an affected radon gas/methane area, but local levels are normally below actionable; and rainwater drainage should be to soakaway. The following additional comments were made: Buildings 2 and 3 (the polytunnels and glasshouse) appear exempt from building regulations.

Summary Of Representations

At the time of writing no public representations have been received. 1 day remains of the 21 day consultation period and any representations received during this time will be reported at Committee.

Relevant Planning History

P/1991/1685: Use As Part Of Occombe Golf Course: Approved 21.12.1992
P/1982/1626: Golf Course And Clubhouse Etc: Refused 9.10.1984

Key Issues/Material Considerations

The key issues are:

1. The principle of the development
2. Impact on Area of Great Landscape Value
3. Impact on Biodiversity
4. Impact on highways
5. Surface water drainage
6. Trees
7. Noise

1. The principle of the development is acceptable. The land is currently used for agricultural purposes and the proposed use for horticulture would keep the land as agricultural. The definition of agriculture in Section 336 of the Town and Country Planning Act 1990 includes horticulture and seed growing. The majority of the site would be directly used for this purpose and does not fall within the definition of development in the 1990 Act requiring planning permission. The development (subject to the application) that does require planning permission is also acceptable in principle, as it is ancillary to the horticultural use. However, these elements need to be assessed against the other key issues below. The development would provide employment and generate economic growth in accordance with the NPPF. About 10 full-time staff would be employed.

2. The site is located in an Area of Great Landscape Value (AGLV). Policy L2 only permits development that is likely to affect AGLV where it will maintain or enhance the special landscape character of the AGLV. The explanation for this policy in the Local Plan describes AGLVs as either areas of high land or parts of valley systems which have distinctive local character. They contain historic and traditional buildings complimentary to the natural landscape. In this case, the site is on the side of a hillside and it is important that the buildings and other development are sited and designed to complement the natural landscape.

The development subject to the application has been sited to the south of the west field, close to the hedgerow in order to limit its visual impact on the AGLV. Consequently the development would not be seen from the south, as it would be hidden behind the hedgerow, and would be seen against the backdrop of the hedgerow and hillside when viewed from the north. Hedgerows would also screen the development to the east and west. In addition, the buildings have been designed to complement the natural landscape through the use of materials and colour, and they would appear agricultural in nature to fit in with the countryside setting. Soft landscape would be used around the parking area and reservoir to soften the appearance of these elements. Therefore, it is considered that the development would not have a detrimental impact on the AGLV.

3. Ocombe Meadows Site of Special Scientific Interest (SSSI) lies to the north of

the site and is a nationally important site protected by Policy NC2. Natural England has reviewed the application and concluded that the proposed development is unlikely have an adverse effect on this site provided the application is carried out in strict accordance with the details of the application as submitted. As the SSSI is some distance away from the proposed developed parts of the site, it is considered that the proposal is unlikely to harm the nature conservation interests of the SSSI and is acceptable in the context of Policy NC2.

The site is also located in Occombe Farm & Scadson Woods Local Nature Reserve (LNR). This is a locally important site protected by Policy NC3. The policy restricts development proposals likely to harm LNRs unless:

- (1) there are no reasonable, less damaging, alternative sites;
- (2) the reasons for the development can be shown to outweigh the damage to nature conservation interests;
- (3) every effort has been made to minimise any damage to nature conservation interests; and
- (4) mitigation measures can be provided to manage remaining wildlife features and secure habitat creation or enhancement elsewhere within the site or locally.

The LNR is managed by Torbay Coast and Countryside Trust who are supportive of the application. In addition, the Phase 1 Habitat Survey Report confirms no significant evidence was found of protected species that would be affected and the proposals would increase biodiversity, e.g. biodiversity improvement area to the east and the use of bat and bird boxes. However, there would be an impact on the hedgerows to create the access points to the two fields. Both hedgerows are species-rich and the hedgerow along the west boundary is a Devon hedgebank. Species-rich hedgerows are important habitats that are recognised in Devon by having a Biodiversity Action Plan (BAP). The species-rich Devon hedgebank also contains Primrose, a Devon BAP species. The report recommends both hedgerows should be retained, along with the standard trees within them, but also provides management advice on the removal of sections of hedgerow to protect breeding birds. In the Abstract the tone of the report changes slightly by recommending that aside from the small area to be removed, the species-rich hedges should be retained. The report also recommends the retention of the semi-improved grassland areas in the form of the field margins and increasing them if possible. Site specific advice is provided to increase biodiversity, including retaining hedgerows as far as possible and planting up the hedge to the south in the longer term. Overall the report concludes there are no significant species and habitats on the site and therefore there is no reason to refuse planning permission.

The report is slightly contradictory over its advice concerning the hedgerows. It is clear that they should be retained in their entirety if possible, but as this is not possible the impact is presented as acceptable as the sections are regarded as small and mitigation can be carried out to enhance biodiversity in the longer term.

The report also refers to the replacement of a large proportion of the hedgebank to minimise the loss in the development proposals, as one of the methods to increase biodiversity on the site. This replacement hedgerow is shown on the plans forming the visibility splay to the main access from the lane, together with a landscape schedule. Whilst roughly the same amount of hedgerow would be replaced, the linear nature of the hedgebank would be disrupted, which is a positive feature of the hedgebank for biodiversity. In addition, no replacement hedgerow is shown on the plans for the loss of hedgerow between the two fields, although this is a smaller access.

On balance, given the lack of options for providing alternative access to the site, the overall enhancement of biodiversity as a result of the proposals and other benefits of the scheme, the efforts taken to minimise damage to nature conservation interests, and mitigation measures put forward in the Phase 1 Habitat Survey Report, it is considered that the proposal is acceptable in the context of Policy NC3. Conditions are required to ensure the mitigation measures in the report are carried out and to show the detailed design of the replacement hedgebank.

4. The Highways department has no objection to the proposed development in principle. Whilst the access lane to the west is private, there appear to be no restrictions to its use by the public and it would be up to the applicant to ensure they had access rights over it, which is not a material planning consideration. The lane surface is a little potted and the Highways department has requested that it is upgraded, as it is considered unsuitable for larger vehicles. This is partly to encourage access to the site along the lane from Preston Down Road instead of Cockington Road, as the lane junction with Cockington Road has poor visibility. The Highways department has recommended a condition to ensure access is from Preston Down Road, which has been agreed by the applicant and could be supported by a sign at the entrance to the site making this clear. It is not considered necessary for the applicant to upgrade the lane to make the development acceptable in planning terms, nor does it seem fairly and reasonably related in scale and kind to the development, as larger delivery vehicles would only access the site on a weekly basis. Therefore, it should not be included as an additional planning condition, as it would not comply with the tests set out in the NPPF.

5. Surface water drainage would be to an open reservoir and storage tank next to the storage and packing shed. These would be water retaining structures and the water would be used to irrigate the trial grounds and plants in the polytunnels and glasshouse. The Engineering - Drainage department has recommended a condition to provide further details of the design of the surface water drainage system and the reservoir, and how they cater for the 1 in 100 year critical rainfall event plus an allowance for climate change, as well as modelling of how flood water would be dealt with should the reservoir overtop. The applicant has agreed to this.

There might be a concern about the safety of the reservoir from the public gaining access to the site without permission. Whilst a 1.2m high fence is proposed around the reservoir, should the application be approved, a condition is recommended requiring details of how the site and reservoir will be made secure during out of hours and at weekends.

6. The Council's Arboricultural Officer has a number of concerns regarding the close relationship of the proposed buildings to the group of Monterey Pine trees along the south boundary. This stems from concerns that the trees might have a negative impact on the use of the buildings over time due to overshadowing and shedding material which could damage the buildings. This might lead to works to the trees, which would be acceptable if minor, but unacceptable if they were extensive as it would harm the visual amenity of the trees. Whilst the Arboricultural Officer has suggested the buildings should be moved a minimum of 2m to the north to limit any potential conflict, this has been rejected by the applicant due to the effect it would have on other elements of the scheme and their belief it is unnecessary. To help demonstrate this, the applicant has submitted a plan showing the tree root protection areas overlaid onto the proposed site plan. This shows the buildings are outside the tree root protection areas and are generally a few metres away. As the proposed development would not have a direct effect on the trees and any works to them can be controlled by the Council via condition or Tree Preservation Order, the proposal is considered acceptable in regard to this issue.

7. A concern has been raised by the Community Safety department about potential noise from the refrigeration unit affecting local residents. Therefore, a condition is recommended requiring a Noise Impact Assessment to be submitted. In addition, a condition is recommended limiting delivery and collection vehicle times to prevent nuisance to local residents.

S106/CIL -

A contribution of £8,000.00 was estimated towards sustainable transport. However, this is mitigated by the number of jobs generated by the proposed development, which equates to £20,600.00 (10 full time jobs) following the methodology in the SPD Update 3. Therefore a S106 Agreement is not required.

Conclusions

The scheme would support economic growth in a rural area in accordance with the NPPF and would provide approximately 10 new jobs in Torbay. The use of the land would remain agricultural as a horticultural trial ground and the ancillary buildings and development have been designed to maintain the special landscape character of the AGLV. Whilst sections of two species-rich hedgerows (one is a Devon hedgebank) would be removed, this is mitigated by biodiversity enhancements overall including: creating a biodiversity improvement area to the east, replacement hedgebank and the use of bat and bird boxes. In addition,

further mitigation is suggested in the Phase 1 Habitat Survey Report to increase biodiversity, such as planting up the hedge to the south using the same mix of species found in the adjacent species-rich hedgerows, which should be conditioned if planning permission is granted. There are no highways issues, although a condition is recommended to ensure access/egress is from Preston Down Road only. Further drainage information is required, but this can also be conditioned, and the proposals would have no impact on trees provided the plans and methodologies in the arboricultural report are enacted throughout construction, subject to the inclusion of a Tree Protection Plan.

Schedule of Condition Headings:

- 1 Time limit for implementation
- 2 Approved drawings
- 3 Materials
- 4 Construction Method Statement
- 5 Biodiversity mitigation/management in Phase 1 Habitat Survey Report
- 6 Detailed design replacement hedgebank
- 7 Access/egress via Preston Down Road only
- 8 Drainage/reservoir/floodwater details
- 9 Security
- 10 Arboricultural Report/Tree Protection Plan
- 11 Noise Impact Assessment
- 12 Waste/Recycling

Relevant Policies

- E5 Employment provision on unidentified site
- E9 Layout, design and sustainability
- IN1 Water, drainage and sewerage infrastructure
- W7 Development and waste recycling facilities
- LS Landscape strategy
- L2 Areas of Great Landscape Value
- L4 Countryside Zones
- L8 Protection of hedgerows, woodlands
- L9 Planting and retention of trees
- L10 Major development and landscaping
- NCS Nature conservation strategy
- NC2 Protected sites - nationally important site
- NC3 Protected sites - locally important site
- NC5 Protected species
- EP4 Noise
- BE1 Design of new development
- BE2 Landscaping and design
- T1 Development accessibility
- T2 Transport hierarchy

T26 Access from development on to the highway

Agenda Item 12

Application Number

P/2012/0914

Site Address

Unit 4
Vista Apartments
17 Alta Vista Road
Paignton
Devon
TQ4 6DA

Case Officer

Mr Robert Pierce

Ward

Roundham With Hyde

Description

Variation of condition 1 to application P/2003/1605 to change from holiday let to permanent residential

Executive Summary/Key Outcomes

The application seeks permission for the removal of a restrictive condition to allow the unit to become residential.

When considered against TU6 it is considered that the removal of the restrictive condition is acceptable and other units in the block and the wider area have already gained permission for similar proposals.

Recommendation

Approval

Site Details

Purpose built block of holiday apartments situated on the south side of Alta Vista Road. Specifically this application relates to unit 4.

Detailed Proposals

Permission is sought to vary condition 1 of the original planning application (P/2003/1605) for the holiday apartments to allow unit 4 to be used as an unrestricted residential dwelling.

Summary Of Consultation Responses

None

Summary Of Representations

None

Relevant Planning History

Similar applications recently approved for Alta Vista Apartments.

Key Issues/Material Considerations

The starting point for consideration is the fact that the property is a medium sized block of holiday flats situated within a Principle Holiday Accommodation Area, as defined by policy TU6.9 of the Saved Adopted Torbay Local Plan. As originally approved by the Council, the purpose of this policy was to resist changes of use away from holiday accommodation where that change would be detrimental to the character and function of the Principal Holiday Accommodation Area. This usually resulted in refusal to grant planning permissions to change uses from holiday accommodation to permanent residential occupation.

This policy states clearly that applications involving the loss of holiday accommodation within an identified P.H.A.A. should be tested against 4 key criteria and that they may be permitted where the following criteria apply:-

- a) the premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;
- b) the premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced) or apartments (if self-catering);
- c) the loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and
- d) the proposed new use or development is compatible with the surrounding tourism related uses and does not harm the holiday character and atmosphere of the PHAA.

The premises, on the whole, has a basic range of facilities, however as they are all individually owned there is little scope for improving the holiday facilities.

It is deemed that the unit does have restricted bedspace capacity as it is a single unit.

There is a mix of holiday and residential uses in the area and therefore there is not an overall strong holiday character. The principle of converting this unit from holiday to residential is considered to be acceptable.

It is considered that a change from holiday to residential is unlikely to impact on the holiday character and atmosphere as the accommodation due to its limited functionality as a unit of holiday accommodation. Similarly, the unit is self-catering and there are no convenience shops within easy walking distance, as such this may promote an unsustainable form of tourist accommodation.

Suitable on site parking is available to accommodate the residential unit and is

located to the rear of the premises and accessed via a driveway to the side elevation.

It is therefore considered that the proposed change would not meet all the requirements of TU6.

As a result of recent changes in holiday trends and more importantly the recent severe economic problems, policy TU6 has been examined again and re-interpreted to ensure that it is up to date, clear and gives a degree of flexibility in the current economic climate. Last year, the Council adopted a revised interpretation of the PHAA policy. Prior to its adoption, this Revised Guidance was the subject of public and stakeholder consultation. Although the Revised Guidance on PHAA's does not form part of the LDF or Local Plan, it is capable of constituting a material consideration which can be weighed against others when determining whether consent may be granted.

"Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)" (March 2010) sets out a traffic light based approach whereby PHAAs were colour coded into 3 areas. This site sits within Roundham Road PHAA which was identified as a green area. Para 3.17 of the Revised Guidance states that in these areas, the change of use of serviced accommodation with fewer than 50 letting bedrooms or holiday apartments is likely to be considered to meet the criteria in Policy TU6, so long as they don't offer particular facilities of importance to the resort. In other words there is a presumption that residential use will be acceptable.

In addition to this a recent Appeal Decisions for similar proposals have to be taken into account, in particular the Inspector when considering the Goodrington Lodge Appeal was of the view that this PHAA has a limited holiday character and he gave considerable weight to the Revised Planning Guidance which supports residential use. The Inspector also was of the opinion that the proposal would be very unlikely to have any perceptible impact upon the 'holiday atmosphere' of the locality or demonstrably harm the character of function of the PHAA.

In view of the recent appeal decisions and the weight placed on the revised guidance the proposed residential occupancy of this unit is now considered to be acceptable.

S106/CIL -

If Members were minded to approve this application consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal.

In line with Government advice, sound economic principles and principles of sustainable development, the Council has decided that the true cost of any

development should be realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. To this aim, the Council has now adopted policy in line with Central Government legislation and advice from the Government Office for the South West which provides justification for this approach and levels of payments that would be sought in relation to specific developments. This is detailed in Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The result of this assessment is that the following contributions will be required.

Sustainable Transport (50% reduction)	£	860.00
Lifelong Learning	£	220.00
Education	£	410.00
Total Contribution	£	1,490.00
(less 5% discount for upfront payment)	£	74.50
Total Discounted Contribution	£	1,415.50

No Greenspace contributions are applicable as Natural Environment Services did not identify any infrastructure requirements.

No Waste management contributions are applicable due to mitigating circumstances i.e. the waste management for this development is provided by a private company.

Conclusions

When this proposal is tested against policy TU6 of the Saved Adopted Local Plan, the revised guidance on this policy and the recent appeal decision, it is considered to meet the criteria for conversion and would not cause demonstrable harm the character or function of the PHAA.

Informative(s)

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003.

The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

TU6, CF6 & CF7

Relevant Policies

- TU6 Principal Holiday Accommodation Areas
- CF6 Community infrastructure contributions
- CF7 Educational contributions

Application Number

P/2012/0995

Site Address

Roseville
Marine Gardens
Paignton
Devon
TQ3 2NT

Case Officer

Mr John Burton

Ward

Preston

Description

Change of use of residential home (Class C2) to house in multiple occupation (sui generis)

Executive Summary/Key Outcomes

It is recognised that in the right place and within established policy criteria, HiMO's represent an important source of inexpensive housing which is clearly needed in Torbay. The surrounding area is generally of a residential character, and so the proposed use would be in keeping with this. The property is currently used as a class C2 residential institution, which could be argued to be a non-conforming use. The proposal appears to conform with all of the primary policy considerations. However, there have been objections from the local community.

Recommendation

Committee Site Visit; Conditional Approval (conditions to be delegated to the Executive Head of Spatial Planning in line with the schedule at the end of this report); Subject to the completion of a s106 Planning Obligation to offset costs that will arise from the use.

Site Details

Large detached property at the end of Marine Gardens on its northern side, lying immediately adjacent to the main Paignton to Torquay railway line.

Detailed Proposals

Permission is sought for a change of use from a class C2 residential institution (care home) to a House in Multiple Occupation. This proposal for a HiMO under Planning Legislation cannot be considered as a change of use to class C4 as this use class is defined as being small shared dwelling houses occupied by between three and six unrelated individuals. Any housing providing for a greater number than this is defined as being a 'sui generis' use. The proposal seeks accommodation for up to 18 people in residence plus a manager's accommodation as an extra unit.

Summary Of Consultation Responses

E.H.O. (Housing): Observations awaited.
Highway Authority: Observations awaited.
Environment Agency (re: flooding) Observations awaited.

Summary Of Representations

3 responses received from neighbours in the vicinity at the time of compiling this report, any further representations will be reported to members before the committee. Relevant comments made so far include:-

- Potential impact upon residential amenities
- Likely noise pollution arising from proposed use
- Marine Gardens is often blocked in the mornings due to delivery lorries
- Increase in traffic along a road without pavements
- Potential impact upon patronage of nearby holiday accommodation
- Likely imposition of problems with 18 residents
- Potential impact of a HiMO upon the holiday character of the area due to anti-social behaviour and difficulties with safety and security
- The Council recommended on 24th March 2010 that action was needed to stop the increase in HiMO's.
- Impact upon the ability to rent adjacent residential apartments
- Roseville be much better as a care home for the frail

It is understood that the reference to the Councils recommendation on 24/03/10 means the paper approved by Council seeking to remove permitted development rights of residential properties across the Bay to change use from C3 residential to C4 use where up to 6 unrelated individuals can share accommodation (small scale HiMO). The law has changed to make this a permitted change. The proposed Article 4 direction is currently out for consultation. However, this would not apply in this instance as the proposal exceeds the C4 occupancy restriction of 6 occupants.

The representations are reproduced at Page P.203.

Relevant Planning History

P/1988/0563	Alterations and additions to provide additional bedrooms and increased lounge/dining room areas. Approved 11/05/1988
P/1992/1108	2nd floor extension to form owners flat and fire escape - approved 09/10/1992
P/1996/1047	Extension to form owners flat. Approved 08/10/1996
P/2008/0429	Alterations and extensions to provide additional accommodation. Approved 05/06/2008

Key Issues/Material Considerations

Background to planning policy considerations in respect of Houses in Multiple Occupation (HiMO's) -

Concentrations of Houses in Multiple Occupation (HiMO's), and the geographical

concentration of certain groups of people residing in them, can lead to substantial changes in the characteristics of a neighbourhood. HiMO's intensify residential occupancy and can have detrimental impacts on the character of streets and places, considerations include parking pressures, social infrastructure requirements, noise and disturbance and other environmental impacts. There are also cumulative impacts that can arise when the concentrations of HiMOs are increased within communities.

A suite of measures exist in relation to the regulation and management of HiMOs that involves various bodies, including the Council. Each tool is capable of preventing, solving or mitigating certain impacts that are a result of HiMOs and will be appropriate in different circumstances. These are as follows:

- Planning Services control the spatial distributions of different uses to ensure that the provision of dwellings (including HiMOs) meets demand in a spatially appropriate and sustainable way;
- The Housing Licensing team provides controls over the state and standard of accommodation that is being offered to tenants;
- The Public Protection Service investigates, and where appropriate enforces breaches of legislation in relation to noise, litter and other amenity related matters;
- Highways and Transport apply and enforce on street parking restrictions and permits;
- The Anti-Social Behaviour Unit apply legislative powers in relation to individuals' and groups' conduct;
- The Building Control team ensure, where the Building Regulation are applicable, the health and safety of people in and around buildings, and; the Police play a role where there is a disturbance of the peace.

In addition, HiMO's must comply with the health and safety requirements of the Housing Health and Safety Rating System (HHSRS). This requires accommodation to be healthy and safe, have adequate natural and artificial lighting and sound insulation. Furthermore, the Building Control team ensures the health and safety of people in and around buildings when the Building Regulation are applicable.

Informed by the national 'Evidence Gathering - Housing in Multiple Occupation and possible planning responses' report, a separate planning Use Class for C4 'Houses in Multiple Occupation' was created by the Government on 6th April 2010. This brought changes of use to C4 into the control of the planning system. This meant that changes of use from C4 to C3 were permitted development but

not vice versa. A class C4 use is defined as Houses in multiple occupation with between 3-6 occupants. In broad terms, the new C4 class covers small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities. From 1st October 2010, in addition to permitted changes of use from C4 to C3, the Coalition Government granted permitted development rights for conversions from C3 to C4, thereby removing the automatic control of local planning authorities for that change of use.

However, large houses in multiple occupation such as that proposed with this current application, where there are more than 6 people sharing the use of the property, are unclassified by the Use Classes Order. In planning terms they are described as being 'sui generis' (of their own kind). Changes of use to a sui generis use require the submission of a planning application to the Council.

Principle and Local Planning Policy -

The primary issue in this case is whether or not the proposal would meet the tests of policy. Torbay's Local Plan for Torbay to 2032 and beyond is still being prepared and will be out for consultation shortly. Its policy on conversions to and from HiMO's is covered by policy H5. This will have some weight as a material consideration, but little at present given its early stage in the process. It is still therefore more appropriate to refer to the Saved Adopted Torbay Local Plan, which should be accorded great weight given the saved status of the plan. In any event, the relevant policy criteria within both documents are very similar. The relevant policy in the adopted Local Plan (1995-2011) is policy H7. This policy lists 8 criteria that need to be met before any application for the sub-division of a building into bedsits or non self-contained residential units (HiMO's) would be permitted. It is appropriate to test this application against each of these:

1) The property should be located within easy reach of public transport and community facilities.

Although this site is not located very close to shops and buses, the Preston District shopping centre and the main bus services which operate along Torbay Road are within walking distance of 'Roseville'.

2) The scale and nature of the use does not adversely affect neighbouring residential amenities (by way of noise and general disturbance).

This is a subjective consideration, and should be best judged by those who actually live adjacent to the use. Ultimately it will probably depend upon the individual occupants in the HiMO (were it to be approved), and this of course is beyond the control of the planning system. It is considered important to distinguish the use from its occupancy. Anti-social behaviour is not an inherent and inevitable consequence of a HiMO, but is attributable solely to the behaviour of occupiers. It is clear that planning control exists to regulate uses, however the

type of occupants and/or their general behaviour is outside of planning control. This would be controlled by other legislation and ultimately by the police, but is not a matter for planning consideration.

The number of rooms, and hence people residing at the property would decrease from 22 as a care home to 18 as a HiMO, which should be an improvement to neighbouring occupiers. However, any perceived improvement by reduction of numbers may be lost given the likely accompanying reduction in age ranges. In general terms however, if any HiMO such as may be approved here, was to cause detriment by way of noise and general disturbance, then this would be for other agencies to rectify. Given the size and position of this property, it is not considered likely that there would be any disturbances in planning terms that would indicate the proposal should not be granted approval. It should be remembered that there is still a presumption in favour of development (and changes of use).

Any HiMO authorised in Planning Law would also need to seek approval through Environmental Health legislation, where there is as a matter of fact, in built anti-social behaviour safeguards, which would not exist with other uses such as self contained dwelling units. Therefore, arguably, there is more control in the case of a HiMO. However, Members are requested to deal with this application on the basis of the use and the implications that would arise from this and not to determine the application on the basis of future potential occupancy, which is beyond the remit of the planning system. Therefore on balance it is not felt that the claims made about the impact of the HiMO upon the neighbouring uses are such as to justify refusal under planning legislation.

3) The car parking requirement for the proposed development does not generate an unacceptable level of traffic and adverse environmental impact.

This is the one criterion that it is proposed to remove from the new HiMO policy in the emerging Plan for Torbay, and so maybe it is not appropriate to dwell on this issue. However, it should be noted that 10 car parking spaces currently exist at the property and it is intended to retain these. Also, as previously stated, the site is within walking distance of busses and the services of the Preston district centre.

4) The development would not lead to a loss of holiday accommodation within a P.H.A.A.

Although there are some properties in the vicinity that provide holiday accommodation, the site is not within an identified P.H.A.A. and it is not felt that the proposed use would by its nature necessarily affect other uses. As mentioned previously, this would largely be determined by the residents, which cannot be controlled by the planning system. It should in any event be noted that the area is characterised by predominantly residential uses and as such the

proposed use would not be out of character with that which prevails in the area. Also, Members have allowed holiday accommodation in the area to change use to residential, for example at the Belvedere Apartments.

5) The development would not lead to an over-concentration of similar uses which would harm the character and amenity of the area.

There are no known other authorised HiMO's in the vicinity. Of course it is possible that unlicensed or unauthorised HiMO's exist, but there are currently no outstanding complaints registered with the planning department in relation to other HiMO's local to the application site. On the balance of probability it is reasonable to assume that the area does not have an over-concentration of HiMO uses. There is therefore no evidence to conclude that authorisation of this property as a HiMO in planning terms would be contrary to policy H7(5).

6) A suitable standard of accommodation can be provided.

The rooms proposed basically follow the size and position of those currently used by inhabitants of the care home. It is reasonable to conclude that if the rooms have been acceptable for accommodation by residents of the care home, then there would be similar acceptability for residents of a HiMO. Facilities to be shared would be the same in both instances. On this basis it is difficult to conclude other than the accommodation is suitable and meets the terms of policy H7(6).

7) Adequate storage facilities can be provided for recycling and refuse collection.

The Council normally provides 1 wheelie-bin for land fill waste and up to three boxes for household recyclables per residential unit. It would clearly be impracticable to do this for each of the potential 18 occupiers. However the property can currently house up to 22 residents and provision is made for the storage and collection of their rubbish. The property has plenty of curtilage and it is envisaged that appropriate provision could be made for a degree of external storage (bin store).

8) Supervision by a resident owner/manager or an alternative appropriate level of supervision.

The existing operation makes provision for a Manager's flat, and this is shown as being carried through into the proposed use. The proposal is therefore clearly in accordance with the policy in this regard.

Closing the gap -

There is clearly a big demand for this kind of accommodation within Torbay. Recent housing needs surveys reveal that there is a desperate shortage of shared accommodation and HiMO's in Torbay. This is only likely to get more acute when the Government's new rules on claiming Housing Benefit come into force.

S106/CIL -

There is no reason why an application for a HiMO should not have to meet the tests imposed by National and Local policy in respect of making a financial contribution to offset costs that might arise from the use. Policy CF6 and adopted S.P.D. LDD6 (as amended and updated) are relevant in this regard. LDD6 (as amended) is clear that any Planning Obligation would need to seek costs based upon floor area being provided. A HiMO is technically 1 planning unit, so the level of contribution should be based on the total habitable floorspace within the property. This would take it into the 120 sq. m. + range.

In this instance, given appropriate mitigation for the pre-existing use, contributions should be sought for the following criteria:-

Waste Management	£ 50
Lifelong learning	£ 470
Green space and recreation	£2370
Stronger communities (policing)	£ 200
Monitoring (at £200 per unit)	£ 200
TOTAL	£3390

Conclusions

HiMO's represent an important source of inexpensive housing which is clearly much needed in Torbay. Nevertheless, they should only be granted planning permission where it can be demonstrated that they meet the requirements of policy and all other interests of acknowledged importance. In view of all of the issues involved as discussed in this report the application is recommended for approval, but will need to be the subject of a Planning Obligation to meet the costs arising (as defined above). Members are requested to make a site visit in view of the concerns expressed from local residents.

Conditions

The following suggested conditions are recommended to control the use:

1. Site supervision and retention of site managers premise
2. Bin and cycle store
- 3.

Relevant Policies

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Agenda Item 14

Application Number

P/2012/1002

Site Address

Curledge Street County Primary School
Curledge Street
Paignton
Devon
TQ4 5BA

Case Officer

Mrs Helen Addison

Ward

Roundham With Hyde

Description

Construction of a new link corridor extension (revision to permission P/2011/0384/R3)

Executive Summary/Key Outcomes

The application is retrospective and is for minor alterations to the external appearance of the link corridor between the original school building and the recently constructed two storey extension. The proposed alterations make a positive contribution to the appearance and character of this part of the Old Paignton Conservation Area.

Recommendation

Approval

Site Details

The application site comprises an existing primary school and children's nursery that is situated on both the north and south sides of Curledge Street, adjacent to its junction with Midvale Road. This application relates to the main part of the school which is on the northern side of Curledge Street. The original school buildings are stone faced. On the northern side of the road a new two storey extension has just been completed. The school is visible in the street scene. There is a line of trees along the northern boundary of the site.

The surrounding area is in mixed use. There are a number of residential properties in Curledge Street and residential and commercial properties in Midvale Road. Curledge Street is a one way road. In the Torbay Local Plan 1995-2011 the site is shown as being within the Old Paignton Conservation Area.

Detailed Proposals

This is a retrospective application for a revision to the design of the link corridor between the original school buildings and the new two storey extension.

Following revisions to the internal layout of the school, part of the existing building is proposed to be retained. This has resulted in the following revisions to the link corridor;

- Change from timber cladding to Marley Eternit cladding panels
- Form an enclosed area to the south of the link corridor with a new metal railing balustrade to the top of the wall
- Revision to rear (north elevation) due to part retention of existing building

Summary Of Consultation Responses

None

Summary Of Representations

None

Relevant Planning History

Extensive previous planning history. Most recent applications are as follows;

P/2009/1038	Demolition works; Formation of new classroom building and Children's Centre building, together with associated landscaping. Approved 08/01/2010.
P/2009/1039	Demolition works. Approved 02/03/2010.
P/2010/0450	Removal of stone wall sections and rebuilding of stone wall fronting Midvale Road. Approved 24/06/2010.
P/2010/0469	Demolition works. Approved 18/06/2010.
P/2010/0756	Construction of access ramps to proposed children's centre and change of use between numbers 16 to 20 Curledge Street from public highway to form part of Curledge Street school. Refused 11/11/2010.
P/2011/0384	Revised plans received, elevation details changed revisions to previously approved application P/2009/1038 MR3 to allow for a first floor extension providing 2 additional standard classrooms and child protection/nurture classroom above the previously approved single storey element of the extension proposed north of site. Approved 19/08/2011.
2011/0751	Engineering works to form an access ramp and new school gates, approved 21.9.11
2011/1345	Engineering works to form an access ramp together with the installation of new school gates (revised proposal) approved 23/2/12

Key Issues/Material Considerations

The main issue is the impact of the revised scheme on the appearance and

character of the Old Paignton Conservation Area.

Principle and Planning Policy -

The principle of improving school facilities is consistent with Policy CF10 in the Torbay Local Plan 1995-2011. Policies BES, BE1 and BE5 require new development within a Conservation Area to enhance the appearance and character of the area. Para.56 in the NPPF encourages good design and para. 72 supports development that will widen choice in education.

The proposed revisions to the link corridor will slightly change the appearance of this part of the new extension. The design and materials that have been used are consistent with the new two storey extension and look acceptable in this location. The revision to the northern side of the link corridor will not be visible in the street scene. The proposal will enhance the appearance and character of the Conservation Area.

Closing the gap -

The investment in school facilities in a town centre location will provide enhanced education provision for local residents.

Conclusions

In conclusion, this application is retrospective and is for a minor revision to the design of the link corridor between the original school building and new two storey extension. It is required to improve the facilities within the school. The changes are minor and the resulting development enhances the appearance and character of this area.

Relevant Policies

- CFS Sustainable communities strategy
- CF1 Provision of new and improved community
- CF10 New schools and improved school facilities
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- BE5 Policy in conservation areas
- EP1 Energy efficient design
- EP2 Renewable energy

Application Number

P/2012/1011

Site Address

Oldway Mansion
Torquay Road
Paignton
Devon
TQ3 2TY

Case Officer

Mrs Ruth Robinson

Ward

Preston

Description

Change of use and restoration of stables to hotel use including internal and external alterations.

Executive Summary/Key Outcomes

Planning permission and Listed building consent have recently been granted to secure the future of Oldway Mansion and the Rotunda as a top end hotel destination. The Stables was originally included within the scope of these applications but had to be excluded prior to determination due to the lack of emergent surveys in respect of Bat populations that were known to inhabit the stables building.

That information is now available and advice from Natural England is awaited.

The Stables are Grade II listed and the most 'at risk' building within the Oldway complex. English Heritage expressed some concerns in relation to the proposed works to the Stables in responding to the original applications on the site and their revised advice is awaited.

In principle, the use of the Stables as part of the hotel complex is strongly supported it is important however to ensure that bat communities are protected and that the works are carried out in a way that preserves the important characteristics of the listed building.

The overarching report in relation to the future of Oldway and its grounds is copied and included within the Representations pack at Page P.201. This explains the rationale and benefits of the wider project.

The consultation period will not have expired by the Committee date. However, there is an urgency to achieving a resolution of this matter to halt further decline in the state of this building and to enable the developers to hit key stages in their programme of delivery of this project.

Recommendation

Approval: subject to;

1. The advice of Natural England and English Heritage.
2. No adverse comments, in relation to matters not already covered in the body of the report, having been received within the consultation period
3. Delegation of conditions to Executive Head of Spatial Planning.

Site Details

The Stables is located to the rear of the Rotunda within the grounds of Oldway Mansion. It is in a very dilapidated condition. It originally comprised stabling and a banqueting hall. It is of brick construction with a slate roof with towers at either end of the building. Currently, the squash courts are attached to the eastern elevation but these are to be demolished. The building urgently requires weatherproofing to halt further deterioration. This has to be done within a prescribed period of time in accordance with conditions attached to the recent approvals. Ecological survey work carried out in connection with the recent applications on the site identified that the Stables were used a bat roost. Further survey work was required to establish the status of the roosts and the appropriate level of mitigation.

Detailed Proposals

Change of use of the Stables from Council office accommodation to hotel accommodation comprising bedrooms and conference/banqueting facilities. It involves the construction of a new foyer access, reinstatement of the conservatory/Palm House, internal and external alterations. The demolition of the Squash Courts and reinstatement of the eastern elevation is included in these proposals.

Summary Of Consultation Responses

English Heritage: Comments awaited.

Natural England: Comments awaited.

EH and NE responses in relation to the original applications on the site are attached as appendix Page 201a, 201b and 201c.

Summary Of Representations

None received at time of writing.

Relevant Planning History

P/2011/0925/MPA: Development within grounds of Oldway to provide 46 3 and

- 4 bed family houses, 55 Sheltered units, new bowling rink, Orangery, wedding room café and restoration of historic landscape. Approved: 24.08.12
- P/2011/1020/MPA: Change of use of Mansion and Rotunda to Hotel: Approved 24.08.12
- P/2011/1021/LB: Listed building consent for use of Mansion and Rotunda as Hotel: Awaiting Secretary of State Decision.
- P/2011/LB: Listed building consent for works to boundary wall and Orangery: Awaiting Secretary of State Decision

Key Issues/Material Considerations

The future use of the Stables as part of the hotel complex for Oldway is strongly supported and it needs to be delivered within a tight time scale in order to halt the continued decline of these buildings and to ensure that the project is delivered within the agreed time scale.

Conditions pursuant to the recent permissions required that the reintroduction of the Stables to the Development Programme was to be achieved within a given period, that details of works to weatherproof the structure be submitted within 2 months of the main decisions on the site being issued and that the Mansion/Rotunda could not be occupied for hotel purposes until the Stables had been granted planning permission and listed building consent for the works, and these were substantially complete. The reason for the timetabling is to ensure that the works are carried out quickly and comprehensively.

There are principally 2 issues that need to be resolved in order to move forward with this element of the scheme.

1. The future of the bats currently occupying the Stables and the scale of mitigation.
2. The detail in relation to the conversion and use of the Stables in light of English Heritages comments.

Each will be addressed in turn.

1. The future of the bats currently occupying the Stables and the scale of mitigation

In carrying out Remote Bat Detector Surveys and Bat Roost Assessments in association with the original applications, the Stables was identified as a potential roost with Lesser Horseshoe Bat droppings identified as well as isolated Greater and Lesser Horseshoe bats found roosting in parts of the stables. However its status and therefore the need for mitigation could not be determined without emergent surveys being carried out. Natural England only withdrew its formal objection to the scheme on the basis that the Stables was withdrawn from

consideration as part of the wider proposals on the site. The emergent surveys are now complete.

The survey confirms that the east tower supports a small non breeding summer satellite roost for Lesser Horseshoe Bats and the western extent of the Stable block supports similar for Greater Horseshoe Bats. The survey anticipates a population of around 5 bats in each location. It is acknowledged that the works will destroy the area used by the Greater Horseshoe Bats and disturb the area occupied by the Lesser Horseshoe Bats. This means that a European Protected Species Licence will be needed before works can be carried out.

The applicants consultants have recommended that the roof space within the east tower be retained for roosting by both species of bats and that a new access point is created. Advice is included about good practice in relation to the carrying out of works on the site. This would ultimately be reflected in the terms of the licence.

It is necessary for Natural England to agree that the approach used and mitigation proposed is acceptable and their comments are awaited.

2. The detail in relation to the conversion and use of the Stables in light of English Heritages comments

Whilst supporting the principle of the reuse and restoration of the Stables, some concern was expressed in relation to the proposed works to the internal fabric of the Stables in the formal response to the original listed building applications on the site. The main points of concern were the loss of the stairs to the east and west tower and retention of stables fixtures and fittings.

English Heritage felt that the significance of these features was not adequately addressed as part of the Heritage Statement. They considered that the stairs were original, contributed to the special architectural character of the building and the presumption should be in favour of retention. Similarly they wished to be assured of the retention of the Stables fixtures and fittings. The applicants have responded that they would like the matter to be dealt with by condition. Whilst this is feasible in relation to the fittings the ability to retain the stairs is more fundamental and not really amenable to control in this way. Ultimately, the LBC will be determined by the Secretary of State and so it is necessary to resolve this matter if it is not to cause delays at a later stage.

Generally, the external alterations, comprising a new entrance, reinstatement of the conservatory, and reinstatement of the elevations are considered acceptable. The internal works, with the exception of the loss of stairs are also considered acceptable.

Economy

Cumulatively, this project will create up to 70 jobs and result in investment in the site of around £12million pounds. There will also be spin off in the local economy from enhanced tourism facilities.

Environmental Enhancement

The future of the bat communities on the site is a critical consideration and the requirements of NE will be incorporated into the scheme. The architectural quality and character of the listed building will be protected through sensitive works of conversion.

Conclusions

Due to the need to reach a determination quickly in respect of the planning and Listed Building applications (due to deterioration of the building and programme commitments), it is recommended that if Members are happy with the broad principles involved; that further discussions with EH are held to resolve the retention of the stairs and that the detailed advice of Natural England is incorporated into the detailed design of the mitigation. It is further recommended that the final form of the conditions be delegated to the Head Of Spatial Planning to determine incorporating the advice of NE and EH.

Relevant Policies

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Agenda Item 16

Application Number

P/2012/1012

Site Address

Oldway Mansion
Torquay Road
Paignton
Devon
TQ3 2TY

Case Officer

Mrs Ruth Robinson

Ward

Preston

Description

Change of use and restoration of stables to hotel use including internal and external alterations.

Executive Summary/Key Outcomes

Planning permission and Listed building consent have recently been granted to secure the future of Oldway Mansion and the Rotunda as a top end hotel destination. The Stables were originally included within the scope of these applications but had to be excluded prior to determination due to the lack of emergent surveys in respect of Bat populations that were known to inhabit the building.

That information is now available and advice from Natural England is awaited.

The planning application is considered elsewhere on the Agenda and this is the linked listed building application. The Stables are Grade II listed and the most 'at risk' building within the Oldway complex. English Heritage expressed some concerns in relation to the proposed works to the Stables in responding to the original applications on the site and further advice is awaited.

In principle, the use of the Stables as part of the hotel complex is strongly supported it is important however to ensure that the works are carried out in a way that preserves the important characteristics of the listed building.

The overarching report in relation to the future of Oldway and its grounds is copied and included within the Representations pack at Page P.201. This explains the rationale and benefits of the wider project.

The consultation period will not have expired by the Committee date. However, there is urgency to achieving a resolution of this matter to halt further decline in the state of this building and to enable the developers to hit key stages in their programme of delivery of this project.

Recommendation

Referral to the NCPU subject to:

1. Advice from English Heritage.
2. No adverse comments, in relation to matters not already covered in the body of the report, having been received within the consultation period.
3. Delegation of conditions to Head of Spatial Planning to resolve following receipt of EH advice.

Site Details

The Stables is located to the rear of the Rotunda within the grounds of Oldway Mansion. It is in a very dilapidated condition. It originally comprised stabling and a banqueting hall. It is of brick construction with a slate roof with towers at either end of the building. Currently, the squash courts are attached to the eastern elevation but these are to be demolished. The building urgently requires weatherproofing to halt further deterioration. This has to be done within a prescribed period of time in accordance with conditions attached to the recent approvals.

Detailed Proposals

Is to change the use of the Stables from Council office accommodation to hotel accommodation comprising bedrooms and conference/banqueting facilities. It involves the construction of a new foyer access, reinstatement of the conservatory/Palm House, internal and external alterations. The demolition of the Squash Courts and reinstatement of the eastern elevation is included in these proposals.

Summary Of Consultation Responses

English Heritage: Comments awaited.

EH comments in relation to the original application on the site are attached on Page P.201.

Summary Of Representations

None received at time of writing.

Relevant Planning History

P/2011/0925/MPA: Development within grounds of Oldway to provide 46 3 and 4 bed family houses, 55 Sheltered units, new bowling rink, Orangery, wedding room café and restoration of historic landscape. Approved: 24.08.12

P/2011/1020/MPA: Change of use of Mansion and Rotunda to Hotel: Approved

24.08.12

P/2011/1021/LB: Listed building consent for use of Mansion and Rotunda as Hotel: Awaiting Secretary of State Decision.

P/2011/LB: Listed building consent for works to boundary wall and Orangery: Awaiting Secretary of State Decision

Key Issues/Material Considerations

The future use of the Stables as part of the hotel complex for Oldway is strongly supported and it needs to be delivered within a tight time scale in order to halt the continued decline of these buildings and to ensure that the project is delivered within the agreed time scale.

Conditions pursuant to the recent permissions required that the reintroduction of the Stables to the Development Programme was to be achieved within a given period, that details of works to weatherproof the structure be submitted within 2 months of the main decisions on the site being issued and that the Mansion/Rotunda could not be occupied for hotel purposes until the Stables had been granted planning permission and listed building consent for the works and these were substantially complete. The reason for the timetabling is to ensure that the works are carried out quickly and comprehensively.

English Heritage responded to the original applications on the site confirming their support for the reuse and restoration of the stables although some concern was expressed in relation to the proposed works to the internal fabric of the Stables. The main points of concern were the loss of the stairs to the east and west tower and retention of stables fixtures and fittings.

EH felt that the significance of these features was not adequately addressed as part of the Heritage Statement. They considered that the stairs were original, contributed to the special architectural character of the building and the presumption should be in favour of retention. Similarly they wished to be assured of the retention of the Stable fixtures and fittings. The applicants have responded that they would like the matter to be dealt with by condition. Whilst this is feasible in relation to the fittings, the ability to retain the stairs is more fundamental and not really amenable to control in this way. Ultimately, the LBC will be determined by the Secretary of State and so it is necessary to resolve this matter if it is not to cause delays at a later stage through further discussion with EH.

Generally, the external alterations, comprising a new entrance, reinstatement of the conservatory, reinstatement of the elevations are considered acceptable. The internal works, with the exception of the loss of stairs are considered acceptable.

The conditions will need to follow those agreed in relation to the change of use of the Mansion and Rotunda with the addition of those considered necessary following discussion with EH in relation to the stairs and stable fixtures and

fittings.

Economy

Cumulatively, this project will create up to 70 jobs and result in investment in the site of around £12million pounds. There will also be spin off in the local economy from enhanced tourism facilities.

Environmental Enhancement

The future of the bat communities on the site is a critical consideration and the requirements of NE will be incorporated into the scheme. The architectural quality and character of the listed building will be protected through sensitive works of conversion.

Conclusions

Due to the need to reach a determination quickly in respect of these applications, it is recommended that if Members are happy with the broad principles involved that further discussions with EH are held to resolve the retention of the stairs and the stable fixtures and fittings. It is recommended that the final form of the conditions be delegated to the Head Of Spatial Planning to determine as the advice of EH is required before these can be finalised. The application will have to be referred to the NCPU for a formal decision.

Relevant Policies

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Agenda Item 17

Report to Development Management Committee

Blue Seafood Company – Proposed Enforcement Action

1.0 Background

- 1.1. Following the refusal of application P/2012/0704 on the 13th August 2012, officers have been considering enforcement action to secure the permanent removal of the structures from the site.
- 1.2. Given the known impact on jobs some delay followed the Committee decision to see whether the TDA could provide help or a solution which would safeguard any jobs which were allegedly under threat. It is understood that a meeting took place but no answers were found.
- 1.3. In these circumstances the Executive Head of Spatial Planning met the applicant on site and at his new premises near Long Road.
- 1.4. Members views were then sought in relation to an enforcement action and the timing of compliance. The Executive Head initially advised a compliance date of the 31st December 2013. Some Members were concerned that this timeframe ran counter to their decision on the planning application.

2.0 Reasons for suggesting an extended date

- 2.1. The applicant's submission that he genuinely intends to relocate in total to Long Road once his business circumstances allowed seems genuine. There is clearly considerable unused and expensive space at Long Road held in readiness for the move. Jobs seemed to be genuinely under threat.
- 2.2. In discussion with the harbourmaster the date 31st December 2013 was felt by him to be tolerable as an absolute deadline.
- 2.3. A question mark was raised about whether the structures needed consent because they were allegedly moveable, stationed within the curtilage of the site and used for a purpose ancillary to the main use. Our legal advisors have since advised that based on recent case law the structures do need planning consent.
- 2.4. The applicant volunteered on site to remove the refrigeration unit in October 2012 and to improve the appearance of the remaining unit through attractive artwork.
- 2.5. When an enforcement notice is served there are times set before it takes effect; times within which an appeal may be lodged; and times within which the notice must be complied with, i.e. in this case units permanently removed from the site. In these circumstances what might be consider as a 'fast-track enforcement' notice is unlikely to achieve removal for over 7 months from the date of service given the applicant's stated intention to appeal. It is a matter of judgement as to whether an extension of time to the 31st December 2013 could be tolerated in these circumstances given the importance of jobs.

3.0 Proposals

- 3.1. Given local objections and understandable concerns, Members are asked to fast-track the removal of the refrigeration unit as set out in Option 1 below. In relation to the other bigger unit, Members' instructions are requested as to which of the two options set out below they wish to pursue.

3.2 Option 1 – Fast-track Removal

Prepare notice and give 28 days to take effect, and 3 months for compliance.

3.3 28 days is the minimum period allowed for the notice to take effect and 3 months for compliance is felt to be the minimum reasonable response time given this is a business and jobs are involved.

3.4 However, an appeal may be lodged before the notice takes effect, i.e. within the 28 days. If so, the matter is held in abeyance until the appeal is determined by an Inspector. This could take 3 to 6 months, depending on the method of appeal and workloads at the Inspectorate. If the appeal is dismissed and the notice is upheld or not varied by the Inspector, the compliance period is reset from the date of the appeal decision. In effect this means that at best a so-called fast-track enforcement notice is unlikely to achieve removal of the structures for between 7-10 months from October, i.e. May to July 2013.

3.5 Option 2

Delay compliance date until the 31st December 2013, whilst securing an improvement to the appearance of the unit with an art scheme.

3.6 The timetable within which the notice takes effect and period for appeal would remain as above, but given the applicant's circumstances the date for compliance would be fixed at the 31st December 2013. If an appeal is lodged and not upheld it would likely be determined sometime between January and March 2013.

3.7 In these circumstances if the appeal is dismissed or not varied, the December 2013 deadline is unchallengeable and the matter can be referred for prosecution for non-compliance with the notice.

3.8 Members have inquired about how Option 2 differs from their decision to refuse the planning application to keep the units on site until the 31st December 2013.

3.9 It is argued that circumstances are different in that:-

- 1) One of the units will have gone;
- 2) The appearance of the remaining unit will be improved as secured by the enforcement notice;
- 3) Once any appeal into the enforcement notice has been determined, and this will have happened long before the 31st December 2013, there will be certainty about the ability to prosecute for non-removal.

3.10 If the application had been approved with a condition requiring removal by December 2013 and that condition had not been complied with, the Council would need to serve an enforcement notice at that time which would mean at least a further 7 months before removal if an appeal was lodged (as set out in Option 1 above).

4.0 Recommendation

4.1 Members adopt Option 1 in relation to the freezer unit (if it has not already gone by the Committee date) and Option 2 in relation to the remaining unit.