



Friday, 4 January 2013

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 14 January 2013

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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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** (Pages 1 - 12)
To confirm as a correct record the Minutes of the meeting of this Committee held on 10 and 11 December 2012.
3. **Declarations of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary 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 Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
5. **P/2012/1123/MPA - 250 Babbacombe Road, Torquay** (Pages 13 - 23)
Alterations to the building associated with its conversion to a supermarket and extension to the internal mezzanine floor by 282 sqm for ancillary plant and offices [non sales area]; together with new hard and soft landscaping, car park layout and site access arrangements (following demolition of greenhouse extensions, 297 sqm).
6. **P/2012/1124/VC - 250 Babbacombe Road, Torquay** (Pages 24 - 34)
Variation of Condition 3 to enable deliveries to take place between 7am and 11 pm on Mondays-Saturdays and 8am to 6pm on Sundays and Bank Holidays and the removal of Condition 5 pursuant to planning permission reference 83.353 allowing the sale of all goods within Use Class A1, thereby allowing the premises to be used as a supermarket.

7. **P/2012/1208/MPA - Coombe Pafford School, Steps Lane, Torquay** (Pages 35 - 42)
Demolition of 2 existing teaching blocks and replace with 2 new educational facilities and central courtyard. The new accommodation includes:-
Block C - new teaching facility; Block D - new hospitality learning facility and cafe and a new controlled access route provides vehicular and pedestrian access from Moor Lane.
8. **P/2012/1228/PA - Redstones, Cockington Lane, Torquay** (Pages 43 - 47)
Demolition of house and conservatory; erection of 3 bedroom replacement dwelling; use of existing studio as dwelling during rebuilding and use thereafter as guest accommodation; alterations to existing access to Cockington Lane and provision of private sewerage system
9. **P/2012/1231/OA - 15 Newton Road, Torquay** (Pages 48 - 52)
Formation of 4 flats in site curtilage (In Outline) Revised scheme.
10. **P/2012/1264/MPA - Land Rear of Edinburgh Villas, Off McKay Avenue And Newton Road, Torquay** (Pages 53 - 58)
Development of site comprising 25 Retirement Living Apartments and 50 Assisted Living Extra Care Apartments with associated parking, landscaping and servicing and communal and care facilities.
11. **P/2012/1223/MPS - Kings Ash House, Kings Ash Hill, Paignton** (Pages 59 - 67)
Demolition of office building; change of use to residential and erection of 14 dwellings with associated parking and off-site works.
12. **Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
13. **Appeal Decisions Report January 2013** (Pages 68 - 73)
To receive a Report on recent Planning Appeal Decisions.
14. **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.
15. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let the Governance Support know by 5.00 p.m. on Wednesday, 9 January 2013. 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 December 2012

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Baldrey, Barnby, Hill, Kingscote, Pentney and Stockman

(Also in attendance: Councillors Faulkner (A), Richards, Thomas (D) and Thomas (J))

90. Minutes

The Minutes of the meeting of the Development Management Committee held on 12 November 2012 were confirmed as a correct record and signed by the Chairman.

91. P/2012/1037/MPA - Land to the West of Collaton St Mary Primary School and North of the A385 Totnes Road, Collaton St Mary, Paignton

The Committee considered an application for a development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road , internal road layout, car parking, open space, landscaping, ponds services and infrastructure and all other associated development. THIS IS A DEPARTURE FROM THE LOCAL PLAN

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 Watts, Anne Waite and Damian Barton addressed the Committee against the application and Ed Heynes addressed the Committee in support. In accordance with Standing Order B4.1 Councillors Thomas (J), Thomas (D) and Richards addressed the Committee.

Resolved:

Refused for the following reasons:

- (i) The proposal demonstrates a failure to consider the wider rural, high quality landscape setting of the village and the application site and the long term opportunity in the area to deliver a planned organic and sustainable form of development that would improve opportunities for the community in terms of quality of housing, job opportunities, recreation, leisure and community facilities. This proposal brings forward the piecemeal development of this site without an overall understanding of how it would contribute to delivering

a robust and comprehensive growth strategy for the area. The proposal would fail to deliver an integrated organic extension of the village and would result in community facilities sited in a remote location in comparison with the hub of the village that is centred around the school and church and as such would encourage car borne activity. As such, the development is not considered to be sustainable, being contrary to paragraphs 56, 57, 58, and 61 in the NPPF, which seek to make places better for people.

- (ii) The proposed development by reason of its design and layout would fail to deliver a sustainable form of development that would integrate effectively with the historic form of the adjoining village and the natural environmental features of the site and surrounding area. The proposal comprises a suburban form and vernacular that would be indistinct in its origins and would fail to respect the 'edge of settlement' rural character of the site and would fail to provide a high quality development that would improve the quality of the area and the way in which it functions. As such the proposal would fail to meet the objectives of Policies H2, H9, H10, BES and BE1 in the Torbay Local Plan 1995-2011 and paragraphs 56, 60, 61, 64 and 66 of the NPPF, which seek to ensure that new development is sustainable and will positively enhance the built environment, maintaining the integrity of local character and distinctiveness.
- (iii) This undeveloped Greenfield site is designated as being within an Area of Great Landscape Value and part of the Countryside Zone in the saved adopted Torbay Local Plan. The site is on the edge of Collaton St Mary and forms part of an attractive rural valley with a high landscape value. It has an important role in the transition between the open countryside and the urban edge of Paignton and it makes a valuable contribution to local and wider landscape views. Within Areas of Great Landscape Value such as this, Local Plan policy L2 requires development to maintain or enhance the special character of the area. Policy L4 resists inappropriate development that would lead to the loss of open countryside and the creation of urban sprawl. The proposed development, by reason of its suburban character and form, which is derived from entire site coverage with rows of houses across the hillside, would result in an orderly form of development with an urban character. This would fail to respect the rural setting of the site and to relate sensitively to the wider landscape setting and as such would be contrary to the provisions of policies LS, L2 and L4 of the saved adopted Torbay Local Plan (1995-2011).
- (iv) In the absence of a signed legal agreement under Section 106 of the Town and Country Act 1990 (as amended), the applicant has failed to satisfy the sustainability aims of Policies H6 and CF6 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" to secure the delivery of affordable housing and physical, social and community infrastructure necessary to make the development acceptable in planning terms. Furthermore, a lack of a Section 106 agreement also incurs an absence of ability to secure an enhancement to biodiversity. The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal

agreement and the proposal is therefore contrary to Policies H6, CF6, NCS and NC5 of the Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

(Note: Prior to consideration of agenda item 5 the Team Leader for Major Developments declared a personal non-pecuniary interest as his daughter attends Collaton St Mary Primary School).

92. P/2012/0895/MPA - Devon & Cornwall Constabulary, Southfield Road, Paignton

The Committee considered an application for a development to form 54 sheltered apartments for the elderly including communal facilities (Category II type accommodation), access, car parking and landscaping.

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 Simon McFarlane addressed the Committee in support of the application.

Resolved:

Refused for the following reasons:

- (i) The proposed development by reason of its footprint, layout and complex external detailing would result in a form of development with an extensive and overly dominant frontage to Southfield Avenue that would fail to respect the character of this landscape dominated site and the established form of the surrounding townscape that is derived from a spacious layout of buildings with simple external articulation. The proposed development would be visually dominant in the street scene, would have a detrimental impact on local character and distinctiveness and would detract from the setting of nearby listed buildings. The residential amenity for future occupants would be below the standard expected with a third of apartments facing exclusively north towards a high retaining wall, and thus consequently receiving no natural sunlight. As such the proposal would fail to meet the objectives of Policies BES and BE1 in the Torbay Local Plan 1995-2011 and paragraphs 56, 60 and 61 of the NPPF, which seek to ensure that new development is sustainable and will positively enhance the built environment maintaining the integrity of local character and distinctiveness.
- (ii) The applicant has failed to satisfy the sustainability aims of Policy CF6 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" to secure the delivery of physical, social and community infrastructure necessary to make the development acceptable in planning terms and directly related to the proposal, by failing to secure planning obligations under Section 106 of the Town and Country Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any

method other than a legal agreement and the proposal is therefore contrary to Policy CF6 of the Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

93. P/2012/0865/PA - Long Meadow, Blagdon Road, Collaton St Mary, Paignton

The Committee considered an application for the formation of phase 1 unit for poultry breeding unit with vehicular access and 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 Parish addressed the Committee in support of the application.

Resolved:

Approval delegated to Executive Head of Spatial Planning subject to:

- (i) the views of the Environmental Health Officer, Natural England, the Environment Agency, Highways and the RSPB
- (ii) an Ecological Assessment and Flood Risk Assessment being undertaken and any issues resolved; and
- (iii) conditions (including the list of suggested items set in the submitted report), wording to be delegated to the Executive Head of Spatial Planning.

94. P/2012/1078/MPA - Marine Park Holiday Centre, Grange Road, Paignton

The Committee considered an application in respect of reserved matters for layout, appearance, scale and landscaping - following outline approval P/2009/1084/MOA for revised plans; layout and agree siting of plots 6 to 17; formation of one hundred residential units with pedestrian and vehicular access (in outline).

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:

- (i) the possibility of incorporating rainwater harvesting in the application being discussed with the applicant (informative); and
- (ii) conditions set out in the submitted report, wording to be delegated to the Executive Head of Spatial Planning.

95. P/2012/1079/MPA - Marine Park Holiday Centre, Grange Road, Paignton

The Committee considered an application for the erection of 12 dwellings and associated works, with revised siting of plots 6 to 17 and revised access to outline planning permission P/2009/1084/MOA.

Prior to the meeting a written representation was circulated to the Committee and members of the Development Management Committee undertook a site visit.

Resolved:

Approved subject to:

- (i) the completion of an amended Section 106 Agreement in respect of education, lifelong learning, green space, stronger communities, sustainable transport and waste management by 26 December 2012 or the application be refused for the reason of a lack of a s106 agreement
- (ii) an informative be added to explore the possibility of including rainwater harvesting in the application; and
- (iii) conditions set out in the submitted report, wording to be delegated to the Executive Head of Spatial Planning.

96. P/2012/0743/PA - Allways, Teignmouth Road, Torquay

The Committee considered an application for a new dwelling in grounds of existing property with new improved entrance and vehicular/pedestrian access.

Prior to the meeting written representations were circulated to the Committee. At the meeting Dr Welsh addressed the Committee against the application and Sarah Hunt addressed the Committee in support. Under Standing Order B4.1 Councillor Faulkner (A) addressed the Committee.

Resolved:

Approved subject to conditions and terms of a Section 106 Agreement being delegated to Executive Head of Spatial Planning.

Reasons for approval:

- (i) the proposals will result in an enhancement to the existing highway access by way of an improvement in visibility and therefore highway safety
- (ii) the proposed development does not detrimentally affect the landscape character of the area; and
- (iii) the plot is effectively a double sized plot when compared to neighbouring dwellings.

97. P/2010/1080/MPA - Conway Court Hotel, Warren Road, Torquay

The Committee considered an application for the demolition of hotel and formation of 14 residential apartments with car parking and vehicular/ pedestrian access.

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 Richard Maddock addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) officers to discuss renewable energy options with the developer
- (ii) the completion of a Section 106 Agreement in respect of waste management, sustainable transport, stronger communities, lifelong learning and green space within six months of the date of this Committee or the application be reconsidered by members; and
- (iii) the receipt of satisfactory additional information required in relation to design details, materials and landscaping including conditions in relation to samples of materials and an engineers report as requested at the Development Management Committee meeting of 29 November 2010.

98. P/2012/1093/MPA - 11 Tor Church Road, Torquay

The Committee considered an application for the formation of 8 houses and 3 flats with vehicle and pedestrian access.

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 Daniel Metcalfe addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) conditions as set in the submitted report, wording to be delegated to the Executive Head of Spatial Planning
- (ii) details in the revised plans in relation to the elevations facing No. 3 St Elfrides Road be clarified; and

- (iii) the completion of a Section 106 Agreement in respect of waste management, education, sustainable transport, green space and lifelong learning by 19 December 2012 or the application be refused.

99. P/2012/1086/MPA - Lincombe Hall Hotel, Lower Woodfield Road, Torquay

The Committee considered an application for the erection of a new 11 bedroom hotel accommodation building, with glass link to existing villa (NB. Access & car parking already have planning permission).

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 Brett Powis addressed the Committee in support of the application.

Resolved:

Approved subject to conditions set in the submitted report.

100. P/2012/1029/PA - Warberry C Of E Primary School, Cedars Road, Torquay

The Committee considered an application for the formation of single storey four classroom extension with toilets and corridor.

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 Matt Redwood addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) conditions set in the submitted report, wording to be delegated to the Executive Head for Spatial Planning
- (ii) the resolution of arboricultural matters to the satisfaction of the Authority's Arboriculture Team; and
- (iii) the resolution of highway and transportation matters to the satisfaction of the Authority's Sustainable Transport Officer to also include enhancement of the School Travel Plan.

101. Adjournment

The following application numbers were deferred to an adjourned meeting on Tuesday 11 December 2012 in the Ballroom, Oldway Mansion, Paignton commencing at 9.30 a.m.

P/2012/1152/PA Elberry Heights, 16 Stone Park, Paignton;

P/2012/1095/PA Annandale, 12 Belle Vue Road, Paignton;

P/2011/0227/PA Shedden Hall Hotel, Shedden Hill Road, Torquay;

P/2012/0846/PA Land off Church Road to the rear of 20 & 22 & side of 18A & 36 Church Road: rear of Cashabac & Sunnyside & Homing, Jacks Lane, Baton, Torquay;

P/2012/1155/PA Dainton Self Store Ltd, Torre Station Yard, Newton Road, Torquay; and

P/2012/0630/PA Westella, Tor Vale, Torquay

Chairwoman



Minutes of the Development Management Committee

11 December 2012

-: Present :-

Councillor McPhail (Chairwoman)

Councillors Morey (Vice-Chair), Addis, Hill, Pentney, Stockman, Brooksbank and Hytche

(Also in attendance: Councillors Excell)

103. Apologies for absence

An apology for absence was received from Councillor Baldrey. 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 Barnby and Councillor Brooksbank instead of Councillor Kingscote.

104. Urgent Items

The Committee considered a verbal update regarding application P/2011/0197, Whiterock. The Committee voted to extend the time limit to complete the Section 106 Agreement to a month later than previously agreed in the Development Management Committee on 18 June 2012. The new date for completion being 18 January 2013.

105. P/2012/1152/PA - Elberry Heights, 16 Stone Park, Paignton

Extend time limit - demolition of existing dwelling and erection of new dwelling - application P/2010/0039.

The Committee considered an application to extend time limit - demolition of existing dwelling and erection of new dwelling - application P/2010/0039.

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 Williams addressed the Committee against the application.

Resolved:

Approved subject to conditions set out in previous application and submitted in the report.

106. P/2012/1095/PA - Annandale, 12 Belle Vue Road, Paignton

Formation of an additional residential coach house unit with amenity space and revised car parking layout.

The Committee considered an application for the formation of an additional residential coach house unit with amenity space and revised car parking layout.

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:

- (i) the completion of a Section 106 Agreement in respect of waste management, sustainable transport, green space and lifelong learning within three months of the date of this Committee or the application be re-considered by members; and
- (ii) the conditions set out in the report.

107. P/2011/0227/MPA - Shedden Hall Hotel, Shedden Hill Road, Torquay

Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking.

The Committee considered an application for part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking.

Resolved that:

An extension of time to allow the completion of a Section 106 Agreement in terms acceptable to the Executive Head of Spatial Planning within six months of the date of this committee be approved, subject to:

- (i) conditions as set in the submitted report, wording to be delegated to the Executive Head of Spatial Planning; and
- (ii) an extra condition – developer to submit proposals to control fly-tipping during the construction process.

108. P/2012/0846/PA - Land off Church Road to the Rear of 20 & 22 & Side Of 18A & 36 Church Road: Rear Of Cashabac & Sunnyhome & Homing, Jacks Lane, Barton, Torquay

Formation of dwelling.

The Committee considered an application for the formation of dwelling.

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 Roberts addressed the Committee against the application.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement in respect of waste management, sustainable transport, education, lifelong learning, green space and recreation within three months of the date of this Committee or the application be reconsidered by members
- (ii) an extra pre-commencement condition to ensure that the entrance into Church Road is widened to give increased visibility splay; and
- (iii) conditions as set in the submitted report, wording to be delegated to the Executive Head of Spatial Planning.

109. P/2012/1155/PA - Dainton Self Store Ltd, Torre Station Yard, Newton Road, Torquay

Change of use from B8 storage to C3 dwelling houses and formation 8 townhouses with 3 storeys and 3 bedrooms with integrated garages and off street parking and 1 single storey bungalow with 3 bedrooms with pedestrian access.

The Committee considered an application for a change of use from B8 storage to C3 dwelling houses and formation of 8 townhouses with 3 storeys and 3 bedrooms with integrated garages and off street parking and 1 single storey bungalow with 3 bedrooms with pedestrian access.

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 Richard Smith and Peter Skinns addressed the Committee in support of the application.

Resolved:

Approved subject to:

- (i) conditions as set out in the submitted report
- (ii) further views of the Environmental Health Officer in respect of potential land contamination; and
- (iii) the completion of a Section 106 Agreement in respect of municipal waste and recycling, sustainable transportation, education, lifelong learning, green space and recreation and to also include the provision

of a ramp at Torre Station within three months of the date of this Committee or the application be reconsidered by members.

110. P/2012/0630/PA - Westella, Tor Vale, Torquay

Erection of 16no. 250W Solar PV panels on A-Frames on residential garage roof of Westella.

The Committee considered an application for the erection of 16no. 250W Solar PV panels on A-Frames on residential garage roof of Westella.

Prior to the meeting a written representation was circulated to the Committee and members of the Development Management Committee undertook a site visit. At the meeting, in accordance with Standing Order B4.1, Councillor Excell addressed the Committee.

Resolved:

Approved subject to the condition that the PV panels shall be removed when no longer required for the purpose for which they were installed.

Chairwoman

Agenda Item 5

Application Number

P/2012/1123

Site Address

250 Babbacombe Road
Torquay
Devon
TQ1 3TA

Case Officer

Matt Diamond

Ward

Wellswood

Description

Alterations to the building associated with its conversion to a supermarket and extension to the internal mezzanine floor by 282 sqm for ancillary plant and offices [non sales area]; together with new hard and soft landscaping, car park layout and site access arrangements (following demolition of greenhouse extensions, 297 sqm).

Executive Summary/Key Outcomes

The proposal is to carry out alterations to the building at 250 Babbacombe Road, Torquay in order to convert it into a supermarket and extension of the internal mezzanine floor by 282 sq m for ancillary plant and offices. In addition, the greenhouse used by the garden centre in front of the building would be demolished and the car park layout rearranged with new hard and soft landscaping. The garden centre would cease operating on the site. The access onto Babbacombe Road would be widened to provide a wider entry lane and two exit lanes.

The building would be re-clad in new materials and a new wave form feature canopy roof built over the building entrance to enhance its appearance and quality. In addition, the existing asbestos sheet roofing would be removed and a new roof structure and membrane applied. An external steel staircase would be built at the rear of the building to provide access to the roof. External plant and refrigeration equipment would be placed at the rear of the building.

The applicant presented draft proposals to the Torbay Design Review Panel at pre-application enquiry stage. The DRP were critical of the design ambition demonstrated given the important setting of the site, adjacent to the Geopark, wildlife corridor and quarry walls. The applicant revised the external design of the building in the application, but did not change the landscape design of the car park, which the DRP said was little more than introducing trees where parking spaces allow and lacked real design intent.

Although the proposed design of the building would be an improvement on the existing and enhance the built environment, it is considered that following the DRP comments the applicant has not gone far enough to demonstrate that the opportunities available for improving the character and quality of the area have been taken – in particular, the design of the roof and its impact on the adjacent scheduled monument and other surrounding designations. This is also the case in regard to the proposed design of the car park, which lacks design quality given its setting in a former quarry and the wildlife corridor passing through it. The applicant has made an effort to enhance biodiversity on the site, which is welcomed, and further biodiversity enhancements should be explored

together with opportunities for sustainable drainage in a redesign of the car park. This could also explore opportunities for education, noting the presence of the scout hut adjacent to the site, on issues such as local history and ecology. Therefore, the application should be refused in accordance with Policy BE2 of the Local Plan and paragraphs 58, 61, 62 and 64 of the NPPF.

The widening of the access onto Babbacombe Road is acceptable. If the application is approved conditions would be required for a Noise Impact Assessment and BREEAM assessment.

As the current permitted use of the premises is a garden centre and for the sale of DIY materials, an application to convert the building into a supermarket, i.e. internal additions of checkouts, preparation areas and reconfigured warehouse/unloading area, should only be approved after the restriction to its use has been lifted. Otherwise, the proposals wouldn't 'function well' with the permitted use of the building, contrary to paragraph 58 of the NPPF. The application should also be refused for this reason.

Recommendation

Refusal for the following reasons:

1. The design of the building does not take the opportunities available for improving the character and quality of the area and the way it functions, in particular the design of the roof and its impact on the adjacent scheduled monument and other landscape and environmental designations surrounding the site, contrary to paragraph 64 of the NPPF.
2. The proposed design of the building does not function well in terms of its current permitted use as a garden centre and for the sale of DIY materials, due to the addition of more checkouts, preparation areas and reconfigured warehouse/unloading area, contrary to paragraph 58 of the NPPF.
3. The landscape proposals are poorly designed given the site context and have failed to take the opportunities available for improving the character and quality of the area and the way it functions, in particular reinforcing the wildlife corridor through the site. Therefore, the landscape proposals do not accord with Policy BE2 of the Local Plan or paragraphs 58, 61, 62 and 64 of the NPPF.

Site Details

The site address is 250 Babbacombe Road, Torquay. The site area is 1.18ha. The site abounds a public footpath and woodland to the south, Walls Hill public open space to the east, an industrial works and scout hut to the northwest and Babbacombe Road to the southwest. The area beyond Babbacombe Road to the west is residential; there is also housing beyond the scout hut and industrial works to the northwest. The site is 520m from the edge of Babbacombe Local Centre, as defined in the Adopted Torbay Local Plan 1995-2011, to the northwest, measured from the site entrance along Babbacombe Road. In addition, the site is 910m from the edge of Wellswood Local Centre, as defined in the Adopted Torbay Local Plan 1995-2011, to the south, measured from the site entrance along Babbacombe Road.

Babbacombe Road is a major road linking Torquay town centre, about 2km from the site along Babbacombe Road to the south, and St Marychurch District Centre, about 1.2km from the site along Babbacombe Road to the northwest. Babbacombe Road is a bus

route and there are a number of bus stops within easy walking distance of the site.

There are numerous national and local designated areas on and around the site:

- Warberries/Walls Hill wildlife corridor passes through the site to the north
- Prehistoric field system at Walls Hill scheduled monument adjoins site along east boundary
- Area of Great Landscape Value (AGLV) adjoins site along east boundary
- Coastal Preservation Area (CPA) adjoins site along east boundary
- Hopes Nose to Walls Hill Site of Scientific Interest (SSSI) in close proximity to the site to the east
- Coastal Protection Zone (CPZ) in close proximity to the site to the east
- Asheldon Copse – Anstey Cove Road County Wildlife Site (CWS) in close proximity to the site to the south
- Palace Hotel (northern edge) Urban Landscape Protection Area (ULPA) in close proximity to the site to the south

The site comprises the former Focus DIY store in the southeast corner and associated car park to the north. The store is currently vacant. In addition, there is a garden centre in front of the store building, which is currently operating as a business. Vehicular access is provided via a two way access on Babbacombe Road.

Detailed Proposals

The proposal is to carry out alterations to the building in order to convert it into a supermarket and extension of the internal mezzanine floor by 282 sq m for ancillary plant and offices. In addition, the greenhouse used by the garden centre in front of the building would be demolished and the car park layout rearranged with new hard and soft landscaping. The garden centre would cease operating on the site.

The vehicular access onto Babbacombe Road would be widened from 20m to 30m to provide a 6m wide access lane and two egress lanes in both directions. The number of car parking spaces would increase from 159 to 168, with the addition of 5 more disability spaces making 9 disability spaces in total and the loss of 1 light goods vehicles/public carrier vehicles space. 7 of the car parking spaces would be parent and child spaces. 1 car parking space and 1 disability space would be available for use of the scout hut. 9 cycle stands would be provided in front of the supermarket entrance allowing 18 cycle spaces. A drop-off/pick-up lay-by would be provided in front of the building entrance for two cars. A gated service yard would be provided adjacent to the building in the northeast corner of the site, with space available in the car park for HGVs to reverse into the service yard. A recycling area would be provided adjacent to the access on Babbacombe Road to the north. Two trees would be removed adjacent to the access and a few more in the northern part of the site. 4 trolley bays would be provided in the car park.

The building would be re-clad in new materials. Most significantly, the mirror effect glazing on the front elevation would be replaced by white composite cladding and timber effect panelling. These materials would also clad the northwest elevation facing the car park. The mirror effect glazing that wraps around the southeast elevation would be re-clad in white composite cladding. The remainder of the southeast elevation and the rear elevation would remain part metal vertical cladding and part brickwork, but the brickwork would be painted white.

The existing asbestos sheet roofing would be removed and a new roof structure and membrane applied (Kingspan topdeck). New roof lights would be installed. A high level, wave form feature canopy roof would be built over the building entrance coloured green. The building entrance would be reconfigured and narrowed, but remain in the same place. A metal cladding strip coloured green would be provided around the top edge of the front, northwest and part of the southeast elevations. An external steel staircase would be built at the rear of the building to provide access to the roof. A 1.1m high metal railing would be built on top of the roof perimeter for safety. External plant and refrigeration equipment would be placed at the rear of the building.

The gross internal area of the building would be 3,534 sq m. The nett sales area would be 1,971 sq m, with the remaining ground floor used for: checkouts, preparation areas (presumably for bakery/delis), warehouse and unloading area.

This application relates to the physical development works to the building and site to convert it into a supermarket. However, Condition 5 of planning permission ref. 83.353 to develop the DIY store restricted the use of the building as a garden centre and for the sale of DIY materials and for no other purposes. Therefore, a separate application (ref. P/2012/1124) has been submitted to remove this condition, which would allow the building to be used as a supermarket. Please note that approval of this application would not allow the building to be used as a supermarket.

In addition, Proposed Elevations drawing no. 11.050 PL08 Rev A states that the signage shown on the drawings is indicative only and will be subject to a separate planning application, which has not yet been submitted.

Summary Of Consultation Responses

Some of the following responses have been reproduced at Page T202.

Torbay Design Review Panel (based on an earlier iteration of the scheme at pre-application stage):

- Encouraged a much more ambitious attempt to reconfigure the site
- Believe applicant should test more radical options for reusing the steel frame
- Would like to see greater emphasis on all aspects of 'green' design
- Without a clearer brief that may encourage a smaller, but higher quality facility then weaknesses for pedestrians will persist and the relationship between the store, servicing and the car park will all be less than optimum
- The context – in terms of the physical parameters of the surroundings and the demographics of the potential customer base ought to be studied and could provide useful stimulus in establishing a much more bespoke response to the challenge of this site

South West Water: No objection.

Environment Agency: No objections, but suggests a condition to incorporate a sustainable drainage scheme into the drainage design.

Engineering/Drainage: No objections.

Natural England: Not likely to have an adverse effect on SSSI. LPA should assess and consider other possible impacts on: protected species, local wildlife sites and local landscape. Biodiversity enhancements are encouraged.

Highways/Strategic Transportation: A logistics delivery plan on how the store will be serviced is required. This must state that St Marychurch and Hele Road would be avoided. This is essential for air quality issues and local congestion. It is incorrect of them to state that this proposal will not lead to an increase of HGV activity on the site, given the length of time that has lapsed since the DIY store closed, and this should be addressed by a sensitive, effective logistics plan.

Requested sustainable transport contributions of £40,000.00 for provision of a cycle link southbound on Babbacombe Road, £6,500.00 for a new bus shelter northbound on Babbacombe Road and £35,000.00 towards highway safety improvements at the Babbacombe Road/St Anne's Road junction.

Supports Travel Plan in appendices of Transport Assessment. Failure to implement Travel Plan would lead to the need to consider parking restrictions on Babbacombe Road. As the store will be popular, it is likely there will be an initial surge in use which may cause some disruption on and off the road, but this will likely settle down shortly and find a natural balance as has occurred at Asda on Newton Road.

Highways raise no objection in principle regarding the site junction and visibility issues, and have not commented upon any issues with the operation of the existing junction at Perinville Road.

Torbay Local Access Forum: Stated no comments.

Building Control: Stated no comments.

Torbay Development Agency: Objected stating 13 grounds of objection. These relate to the principle of allowing the building to be used as a supermarket. Fails the sequential test of town centre first - there are emerging proposals for a viable store on a suitable and available site in the town centre; therefore, the application is not sequentially sound. The entire available convenience capacity identified by GVA would be required by the emerging proposal in the town centre. The RIA submitted with the application is fundamentally flawed: the sequential analysis is flawed and it does not adequately address the impact of the application on the emerging scheme on the Town Hall car park. Will do nothing to strengthen the town centre convenience offer.

Community Safety: Require a Noise Impact Assessment by condition.

Arboricultural Officer: No response.

Refuse Collection & Disposal: No response.

Torbay Coast and Countryside Trust: No response.

Summary Of Representations

Due to the close relationship between planning applications P/2012/1123/MPA and P/2012/1124/VC, the summary of representation is reported for both applications

together and has been re-produced and placed in the Members Room.

121 representations were received supporting the proposals and 35 objecting. Of the representations supporting the proposals, 113 were signed proforma letters drafted by the applicant's communications consultants.

The following were some of the issues raised in support of the applications:

- Building in need of regeneration
- Would improve appearance of building
- Would provide jobs for the area
- Would provide more choice and value
- Unlikely to harm shops in Wellswood or Babbacombe
- Would limit the outflow to The Willows
- Within walking distance of many residents

The following were some of the issues raised objecting to the applications:

- Not in keeping with local area
- Poor design – standard looking with slightly wavy roof
- Impact of traffic, including HGVs, on local highways
- Noise and vibrations from deliveries
- Already enough supermarkets in Torbay and local area
- Impact on shops in local/district centres
- Against Torbay Retail Study (2010/2011)
- Site suitable for housing, which is in more need
- Inappropriate for residential area
- Impact on wildlife corridor
- Staff parking on surrounding streets
- Light pollution
- Community Partnership not consulted
- Loss of garden centre
- Inadequate car parking for size of store
- Safety of pedestrians crossing road
- New roof profile over entrance would detract from view towards and from Walls Hill Downs

Relevant Planning History

83.353: Erection of D.I.Y. Home and Garden Centre, with ancillary parking and service areas, Walls Hill Quarry, Babbacombe Road, Torquay: Approved 23.09.1983

83.2843: Erection of greenhouse Extension, Walls Hill Quarry, 250 Babbacombe Road, Torquay: Approved 17/02.1984

ZP/2008/0267: Extensions To Site And Use As A Supermarket (pre-application enquiry): Approve 01.04.2008

ZP/2011/0698: Change of use and refurbishment of existing vacant unit to provide a food store of approx 3,500sqm with 175 car parking spaces (pre-

application enquiry): Pending Consideration

P/2012/1124: Variation of Condition 3 to enable deliveries to take place between 7am and 11 pm on Mondays-Saturdays and 8am to 6pm on Sundays and Bank Holidays and the removal of Condition 5 pursuant to planning permission reference 83.353 allowing the sale of all goods within Use Class A1, thereby allowing the premises to be used as a supermarket.: Pending Consideration

Key Issues/Material Considerations

The key issues are:

1. Design of the building
2. Landscape design of the car park
3. Alterations to access
4. Impact on biodiversity
5. Sustainability
6. Noise

1. Prior to submitting the application, the applicant presented draft proposals to the Torbay Design Review Panel. The DRP welcomed redevelopment of the site, but identified deficiencies in the existing layout and was concerned that the level of ambition by the applicant may not be sufficient to remedy these. The DRP disliked the existing form of the building and its placement on the site, and recognised that a store of this size would normally require a greater number of car parking spaces. Therefore, it encouraged a proper assessment of a sensible brief for the whole site before committing to refurbishing the existing building. It also suggested that a smaller building with adequate car parking and a better site strategy might be a sounder proposition, and allow more flexibility for a more creative response to the site and the wider context. As the proposals have not changed significantly since the draft proposals presented to the DRP, it is clear the applicant has not done this.

In regard to the design of the building, the DRP supported the idea to reuse the existing steel structural frame, but noted that strict adherence to the existing form and location of the existing frame severely limits opportunities for 'transformational' change on the site. Therefore, the DRP encouraged the applicant to explore adaptations and modifications of the frame to see if this would offer new opportunities. The DRP also questioned whether the floor to ceiling height as built was optimum and whether the applicant's decision to retain internal fabric was wise, as it limits opportunities to create active facades in prominent locations, i.e. the front elevation and northwest elevation facing the car park. Whilst the applicant has made some changes to the design of the building in response to the DRP comments, it is clear they have not explored options of modifying the steel frame as requested by the DRP. The applicant states that the reasons for this are for commercial viability and environmental pragmatism. The applicant also states that the height of the building corresponds to new build stores of this nature.

The DRP also commented on the design of the elevations of the building, stating that more inspiration needs to be taken from the site context, including the Geopark, wildlife corridor and quarry walls. It is these comments that the applicant has responded to by changing the materials of the external cladding to appear 'softer' and more sensitive to the environmental context, and the addition of a curved feature canopy roof over the

entrance of the building. It is considered that these are significant improvements on the design of the existing building and draft proposals presented to the DRP. However, the noted opportunity of creating a 'green' store, such as the new store in Dawlish, hasn't been fully realised. Whilst it is recognised that retaining the existing steel frame offers environmental benefits, the opportunity of creating an ecological habitat on the roof visible from adjacent footpaths or incorporating solar panels hasn't been taken.

On balance, whilst the applicant has not carried out many of the suggestions and recommendations by the DRP, it is considered that the design of the building is an improvement on the existing building and therefore accords with Policies BES and BE1 of the Local Plan in that it enhances the built environment. However, the National Planning Policy Framework (NPPF), published in March 2012, is a material consideration in determining planning applications (Para 13) and it is considered that the applicant has not gone far enough to demonstrate that the opportunities available for improving the character and quality of the area have been taken (Para 64) – in particular, the design of the roof and its impact on the adjacent scheduled monument and other surrounding designations. It is also believed that there may be scope to improve the elevations still further given the site context and requirement to respond to local character and history (Para 58). Therefore, the application should be refused on this basis. It is noted that the NPPF states that local planning authorities should have regard to the recommendations from the DRP in assessing applications (Para 62).

Furthermore, an application to convert the building into a supermarket should only be permitted provided the restriction to its use as a supermarket has been lifted via an application to vary/remove conditions pursuant to planning permission ref. 83.353. Otherwise, the permission would be contrary to its current permitted use as a garden centre and for the sale of DIY materials. The NPPF states that 'decisions should aim to ensure that developments will function well...' (Para 58) and clearly the internal alterations to convert it into a supermarket wouldn't function well for the building's current use.

2. The DRP also provided comments on the landscape design of the car park stating that there is some reinforcement of the wildlife corridor, but otherwise the landscape strategy is little more than introducing trees where parking spaces allow. The DRP encouraged real design intent in the landscape proposals in concert with the building and noted that there are examples where this has been achieved elsewhere in Devon, i.e. Ottery St Mary. In addition, the DRP encouraged the applicant to carry out a detailed assessment of the potential catchment and customer profile for the proposal and to tailor the landscape design to this, e.g. organising pedestrian approaches for maximum ease and elegance should it be demonstrated that there is a higher proportion of older residents who might travel by public transport and walk to the store than typical elsewhere.

The landscape proposals for the car park have not been changed from the draft proposals presented to the DRP. It is considered that, whilst some effort has been made, the landscape proposals are poorly designed given the site context and have failed to take the opportunities available for improving the character and quality of the area and the way it functions, in particular reinforcing the wildlife corridor through the site. Therefore, the landscape proposals do not accord with Policy BE2 of the Local Plan or paragraphs 58, 61, 62 and 64 of the NPPF. Furthermore, there is no evidence that the applicant has carried out an assessment of the potential catchment and customer profile

for the proposal and taken this into consideration.

3. The vehicular access onto Babbacombe Road would be widened to provide a wider entry lane and two exit lanes in either direction on Babbacombe Road. The Highways department does not have any objections to the new access. Therefore, this aspect of the proposals is acceptable.

4. The local planning authority is unaware of any protected or Biodiversity Action Plan (BAP) species on the site and this has not been highlighted in the representations. However, as the site is adjacent to woodland, Natural England's Standing Advice states that bat, breeding bird, badger, dormouse, invertebrate and plant surveys may be required. As the existing building has been vacant for some time, the proposals would affect protected species if they are using the site, e.g. noise from traffic and light spillage. Therefore, further information is required from the applicant, possibly a phase 1 habitat survey, to establish whether protected species are using the site and would be affected by the proposals. There is little information in the application documents on this issue, although the Planning Statement states that the existing car park lighting would be upgraded, and angled and hooded where necessary to only illuminate the required areas and not disturb the adjacent wildlife habitats (Para 4.34). If the application is approved, the lack of information on this issue should be addressed via a pre-commencement condition.

Furthermore, both Natural England and the NPPF promote biodiversity enhancements. The Planning Statement states that the wildlife corridor would be improved through the introduction of soft landscaping consisting of a robust belt of native planting on the northern and southern boundaries. The service yard fence would also be planted with evergreen, flowering and fruiting species to create additional habitat within the site for feeding and nesting opportunities for birds and insects. The remaining landscape is more ornamental in character and would provide nectar for insects and berries for birds. Whilst these would be positive enhancements, there may be scope for further enhancements which should be explored in new landscape proposals for the car park.

5. The Design and Access Statement contains the proposed supermarket operator's corporate strategy on sustainability, but there is no specific detail on how the proposed development would achieve sustainable principles, such as reducing greenhouse gas emissions and energy efficiency. The DRP commented that the stated ambition at the presentation to achieve a BREEAM 'very good' is a weak ambition and many supermarkets go much further, although no commitment to achieve this can be found in the application submission. If the application is approved, a condition would be required for the applicant to submit details of how the building would achieve a BREEAM 'very good' rating, or preferably BREEAM 'excellent'.

In addition, the Environment Agency recommends a condition to incorporate a sustainable drainage scheme into the drainage design. This should be considered in combination with new landscape proposals.

6. If the application is approved, Community Safety has recommended that a condition is placed on the planning permission requiring the submission of a Noise Impact Assessment. This should consider noise from traffic, deliveries, plant and the refrigeration equipment.

S106/CIL -

A sustainable transport contribution of £81,500.00 is required for the following:

- Cycle link southbound on Babbacombe Road (£40,000.00)
- New bus shelter northbound on Babbacombe Road (£6,500.00)
- Highway safety improvements at the Babbacombe Road/St Anne's Road junction (£35,000.00)

However, as these infrastructure improvements would only become necessary after planning permission has been granted to vary/remove the relevant conditions pursuant to planning permission ref. 83.353 to allow the building to be used as a supermarket, any S106 Agreement securing these should be attached to a separate application to vary/remove the relevant conditions, i.e. planning application ref. P/2012/1124/VC.

Conclusions

In conclusion, it is considered that the design of the building and car park have not gone far enough following the comments from the DRP, and fail to take the opportunities available for improving the character and quality of the area and the way it functions, given the important site context. Therefore, planning permission should be refused in accordance with Policy BE2 of the Local Plan and paragraphs 58, 61, 62 and 64 of the NPPF. Furthermore, planning permission to convert the building into a supermarket should not be granted until the restriction to its use as a supermarket has been lifted via an application to vary/remove conditions pursuant to planning permission ref. 83.353. Otherwise, the proposed development would not 'function well' in terms of its current permitted use, which would be contrary to paragraph 58 of the NPPF.

The widening of the vehicular access on Babbacombe Road would be acceptable. Further biodiversity enhancements and sustainable drainage should be incorporated into a new landscape design scheme for the car park.

Condition(s)/Reason(s)

01. The design of the building does not take the opportunities available for improving the character and quality of the area and the way it functions, in particular the design of the roof and its impact on the adjacent scheduled monument and other landscape and environmental designations surrounding the site, contrary to paragraph 64 of the NPPF.

02. The proposed design of the building does not function well in terms of its current permitted use as a garden centre and for the sale of DIY materials, due to the addition of more checkouts, preparation areas and reconfigured warehouse/unloading area, contrary to paragraph 58 of the NPPF.

03. The landscape proposals are poorly designed given the site context and have failed to take the opportunities available for improving the character and quality of the area and the way it functions, in particular reinforcing the wildlife corridor through the site. Therefore, the landscape proposals do not accord with Policy BE2 of the Local Plan or paragraphs 58, 61, 62 and 64 of the NPPF.

Relevant Policies

SS	Shopping strategy
S6	Retail development outside identified To
CF2	Crime prevention
CF6	Community infrastructure contributions
LS	Landscape strategy
L2	Areas of Great Landscape Value
L8	Protection of hedgerows, woodlands and o
L9	Planting and retention of trees
L10	Major development and landscaping
NCS	Nature conservation strategy
NC2	Protected sites - nationally important si
NC3	Protected sites - locally important site
NC4	Wildlife Corridors
NC5	Protected species
EPS	Environmental protection strategy
EP1	Energy efficient design
EP3	Control of pollution
EP4	Noise
EP5	Light pollution
EP6	Derelict and under-used land
EP7	Contaminated land
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
BE9	Archaeological assessment of development
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T7	Access for people with disabilities
T18	Major Road Network
T25	Car parking in new development
T26	Access from development on to the highway
T27	Servicing

Agenda Item 6

Application Number

P/2012/1124

Site Address

250 Babbacombe Road
Torquay
Devon
TQ1 3TA

Case Officer

Matt Diamond

Ward

Wellswood

Description

Variation of Condition 3 to enable deliveries to take place between 7am and 11 pm on Mondays-Saturdays and 8am to 6pm on Sundays and Bank Holidays and the removal of Condition 5 pursuant to planning permission reference 83.353 allowing the sale of all goods within Use Class A1, thereby allowing the premises to be used as a supermarket.

Executive Summary/Key Outcomes

The application is to vary Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays (as amended), and removal of Condition 5 of planning permission ref. 83.353 to allow all uses in Use Class A1, thereby allowing the premises to be used as a supermarket.

The site is in an out of centre location being 520m distance away from the nearest Local Centre at Babbacombe. For retail, edge of centre is defined in the National Planning Policy Framework (NPPF) as a location that is well connected and up to 300 metres of the primary shopping area.

The current permitted delivery times are 8am to 6pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays. The variation of Condition 3 to allow earlier/later deliveries during the week and deliveries on Saturdays, Sundays and Bank Holidays is acceptable, and would not cause undue impact on the amenities of local residents.

The removal of Condition 5 to allow the premises to be used as a supermarket is not acceptable because it fails the sequential test required by Policy S6 of the Local Plan and paragraphs 24 and 27 of the NPPF, as there is a suitable alternative site available in the Town Centre on the Town Hall car park. In addition, it is likely to have a significant adverse impact on the current proposals to bring forward a supermarket on this site, contrary to paragraphs 26 and 27 of the NPPF. Furthermore, the proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, particularly Plainmoor, which is contrary to Policy S6 of the Local Plan and paragraphs 26 and 27 of the NPPF.

The material consideration of 225 jobs created must be balanced against the potential loss of jobs due to the impact of the proposals on centres in the area. Therefore, this is not considered to be sufficient reason to go against Policy S6 of the Local Plan or paragraphs 24, 26 and 27 of the NPPF. In addition, the proposal does not accord with

the Recommendations in the Council's supplementary guidance document 'Future Retail Development in Torbay – Clarification of Policy', which states the site is located in a gap area for major supermarkets, and this guidance document is considered to carry little weight now in any case as it was published before the NPPF, which is a more important material consideration.

The applicant has made no formal offer to provide mitigation for the impacts on local centres. In addition, no S106 Agreement has been prepared to secure necessary sustainable transport contributions, contrary to Policy CF6 of the Local Plan.

For the above reasons, the application should be refused.

Recommendation

Refusal for the following reasons:

1. The proposal fails the sequential test as there is a suitable site available in the Town Centre on the Town Hall car park. Therefore, the application is contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 24 and 27 of the NPPF. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration.

2. The proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site, contrary to paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to paragraphs 26 and 27 of the NPPF. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

3. The proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to these policies. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

4. No S106 Agreement has been prepared to secure necessary sustainable transport contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

Site Details

The site address is 250 Babbacombe Road, Torquay. The site area is 1.18ha. The site abounds a public footpath and woodland to the south, Walls Hill public open space to the east, an industrial works and scout hut to the northwest and Babbacombe Road to the southwest. The area beyond Babbacombe Road to the west is residential; there is also housing beyond the scout hut and industrial works to the northwest. The site is 520m from the edge of Babbacombe Local Centre, as defined in the Adopted Torbay Local Plan 1995-2011, to the northwest, measured from the site entrance along Babbacombe Road. In addition, the site is 910m from the edge of Wellswood Local Centre, as defined

in the Adopted Torbay Local Plan 1995-2011, to the south, measured from the site entrance along Babbacombe Road.

Babbacombe Road is a major road linking Torquay Town Centre, about 2km from the site along Babbacombe Road to the south, and St Marychurch District Centre, about 1.2km from the site along Babbacombe Road to the northwest. Babbacombe Road is a bus route and there are a number of bus stops within easy walking distance of the site.

There are numerous national and local designated areas on and around the site:

- Warberries/Walls Hill wildlife corridor passes through the site to the north
- Prehistoric field system at Walls Hill scheduled monument adjoins site along east boundary
- Area of Great Landscape Value (AGLV) adjoins site along east boundary
- Coastal Preservation Area (CPA) adjoins site along east boundary
- Hopes Nose to Walls Hill Site of Scientific Interest (SSSI) in close proximity to the site to the east
- Coastal Protection Zone (CPZ) in close proximity to the site to the east
- Asheldon Copse – Anstey Cove Road County Wildlife Site (CWS) in close proximity to the site to the south
- Palace Hotel (northern edge) Urban Landscape Protection Area (ULPA) in close proximity to the site to the south

The site comprises the former Focus DIY store in the southeast corner and associated car park to the north. The store is currently vacant. In addition, there is a garden centre in front of the store building, which is currently operating as a business. Vehicular access is provided via a two way access on Babbacombe Road.

Detailed Proposals

The proposal is to vary Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays (as amended), and removal of Condition 5 of planning permission ref. 83.353 to allow all uses in Use Class A1, thereby allowing the premises to be used as a supermarket.

This application amends the existing planning permission ref. 83.353 to allow the premises to be used as a supermarket. The proposed development to convert the building and site into a supermarket is subject of a separate planning application submitted alongside this one (ref. P/2012/1123/MPA).

Summary Of Consultation Responses

Some of the following responses have been re-produced at Page T.203.

Highways/Strategic Transportation: A logistics delivery plan on how the store will be serviced is required. This must state that St Marychurch and Hele Road would be avoided. This is essential for air quality issues and local congestion. It is incorrect of them to state that this proposal will not lead to an increase of HGV activity on the site, given the length of time that has lapsed since the DIY store closed, and this should be addressed by a sensitive, effective logistics plan.

Requested sustainable transport contributions of £40,000.00 for provision of a cycle link

southbound on Babbacombe Road, £6,500.00 for a new bus shelter northbound on Babbacombe Road and £35,000.00 towards highway safety improvements at the Babbacombe Road/St Anne's Road junction.

Supports Travel Plan in appendices of Transport Assessment. Failure to implement Travel Plan would lead to the need to consider parking restrictions on Babbacombe Road. As the store will be popular, it is likely there will be an initial surge in use which may cause some disruption on and off the road, but this will likely settle down shortly and find a natural balance as has occurred at Asda on Newton Road.

Highways raise no objection in principle regarding the site junction and visibility issues, and have not commented upon any issues with the operation of the existing junction at Perinville Road.

Community Safety: No objection to delivery times on Sundays and Bank Holidays. However, proposed delivery times from 6am to midnight on Mondays to Saturdays could potentially have an impact on local residents by way of noise; therefore, recommend deliveries are restricted to between 7am to 11 pm Monday to Saturday, to reduce likelihood of causing a nuisance to local residents.

(The application was subsequently amended in line with these comments.)

Refuse Collection & Disposal: No response.

Torbay Local Access Forum: Stated no comments.

Torbay Development Agency: Objected stating 13 grounds of objection. These relate to the principle of allowing the building to be used as a supermarket. Fails the sequential test of town centre first - there are emerging proposals for a viable store on a suitable and available site in the town centre; therefore, the application is not sequentially sound. The entire available convenience capacity identified by GVA would be required by the emerging proposal in the town centre. The RIA submitted with the application is fundamentally flawed: the sequential analysis is flawed and it does not adequately address the impact of the application on the emerging scheme on the Town Hall car park. Will do nothing to strengthen the town centre convenience offer.

Torbay Coast and Countryside Trust: No response.

South West Water: No objection or comment.

Environment Agency: Stated it has no comments to make.

Engineering/Drainage: No objections.

Natural England: Not likely to have an adverse effect on SSSI.

Building Control: Internal material alterations will require Building Regulation consent.

Summary Of Representations

Due to the close relationship between planning applications P/2012/1123/MPA and

P/2012/1124/VC, the summary of representation is reported for both applications together and these have been re-produced and placed in the Members Room.

121 representations were received supporting the proposals and 35 objecting. Of the representations supporting the proposals, 113 were signed proforma letters drafted by the applicant's communications consultants.

The following were some of the issues raised in support of the applications:

- Building in need of regeneration
- Would improve appearance of building
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- Would provide more choice and value
- Unlikely to harm shops in Wellswood or Babbacombe
- Would limit the outflow to The Willows
- Within walking distance of many residents

The following were some of the issues raised objecting to the applications:

- Not in keeping with local area
- Poor design – standard looking with slightly wavy roof
- Impact of traffic, including HGVs, on local highways
- Noise and vibrations from deliveries
- Already enough supermarkets in Torbay and local area
- Impact on shops in local/district centres
- Against Torbay Retail Study (2010/2011)
- Site suitable for housing, which is in more need
- Inappropriate for residential area
- Impact on wildlife corridor
- Staff parking on surrounding streets
- Light pollution
- Community Partnership not consulted
- Loss of garden centre
- Inadequate car parking for size of store
- Safety of pedestrians crossing road
- New roof profile over entrance would detract from view towards and from Walls Hill Downs

Relevant Planning History

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ZP/2011/0698: Change of use and refurbishment of existing vacant unit to provide a

food store of approx 3,500sqm with 175 car parking spaces (pre-application enquiry): Pending Consideration

P/2012/1123: Alterations to the building associated with its conversion to a supermarket and extension to the internal mezzanine floor by 282 sqm for ancillary plant and offices [non sales area]; together with new hard and soft landscaping, car park layout and site access arrangements (following demolition of greenhouse extensions, 297 sqm.: Pending Consideration

Key Issues/Material Considerations

The key issues are:

1. Principle of the relaxation of use to allow the premises to be used as a supermarket
2. Impact of the relaxation of use on local highways
3. Impact of deliveries on amenities of the area

1. Planning legislation requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The Adopted Torbay Local Plan 1995-2011 is the development plan for Torbay and Policy S6 states that retail development on sites outside existing or proposed shopping centres will only be permitted where:

- There is a need for the new floorspace and this need cannot reasonably be met in a nearby town, district or local centre, either in its entirety or its constituent parts
- A sequential approach has been followed in selecting the location for the proposed development, i.e. centre first, then edge of centre and only as a third preference sites outside any existing or proposed shopping centre
- The development would not individually or cumulatively harm the vitality and viability of any shopping centre within the intended catchment area of the proposed store
- The site is accessible from residential areas, well served by public transport with good access to a major distributor road and would not reduce road safety or detract from the function of the routes
- If the site is in employment use or allocated for such use, the proposal would have significant adverse impact effect on employment opportunities

In terms of the sequential test, the site is out of centre being 520m away from the nearest local centre at Babbacombe. For retail, edge of centre is defined in the National Planning Policy Framework (NPPF) as a location that is well connected and up to 300 metres of the primary shopping area.

In March 2012, the Government's National Planning Policy Framework (NPPF) was published providing national planning guidance to local authorities. It reiterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Para 11). It states the importance of local planning authorities having an up-to-date plan (Para 12) and that the NPPF constitutes guidance for local planning authorities both in drawing up plans and as a material consideration in determining applications (Para 13).

Section 2 of the NPPF deals with town centres and it states that local planning authorities should apply a sequential test to planning applications for main town centre uses – such as the proposal – that are not in an existing centre and are not in

accordance with an up-to-date Local Plan (Para 24). It states that local planning authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre site be considered.

In addition, it states that when assessing applications for retail outside town centres, local planning authorities should require an impact assessment of:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes – such as this - where the full impact will not be realised in five years, the impact should also be assessed up to 10 years from the time the application is made. (Para 26)

The NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused (Para 27).

As the Local Plan was published before the NPPF, the NPPF's policies are an important material consideration for the application.

Torbay Development Agency (TDA) has stated that there are emerging proposals for a viable store on a suitable and available site in Torquay Town Centre on the Town Hall car park. Therefore, the application fails the sequential test required in Policy S6 of the Local Plan and paragraph 24 of the NPPF. On this basis the application should be refused.

In its sequential assessment of alternative sites in the Retail Impact Assessment (RIA) submitted with the application, the applicant argues that the retail needs for a new store are immediate and it may be some time before the Town Hall car park site is developed; therefore, the site is not available at this time. This is considered to be a weak argument, as the site is clearly available following the comments from the TDA. The applicant also argues that the Town Hall car park site isn't suitable because there is insufficient space to develop a supermarket capable of meeting main food shopping needs, and there are physical problems with the site, such as the need to replace the same amount of car parking on the site with a new store. However, the RIA goes on to state that this is not insurmountable and the TDA states it is satisfied the site is suitable. Therefore, it is not considered that the Town Hall car park site is unsuitable at this time and this would only become apparent as the project develops. Lastly, the applicant argues that developing a store on the Town Hall car park site would be commercially challenging to deliver in the short term, as it would need to meet a number of policy tests, in particular the relative high cost of providing sufficient car parking to meet both the needs of retailers and the replacement of existing spaces. However, the TDA states that the emerging proposals are viable and it has received a positive financial offer for the Town Hall car park site.

A material consideration is the Council's supplementary guidance document entitled 'Future Retail Development in Torbay – Clarification of Policy', which was adopted in March 2010. This identifies gap areas in retail provision across Torbay and the site is located in a gap area for major supermarkets. Recommendation 1 of the supplementary

guide states that new retail developments should be located within the existing shopping areas of the Town, District and Local Centres (including where appropriate new Centres within identified gap areas in retail provision) and not in 'out of centre' locations. Recommendation 13 states that to meet the needs of the gap area in which the site is located, Lisburne Square should be designated as a Small Local Centre. It also states that potential sites should be sought for the provision of additional new centres, including a possible new Large Local Centre or District Centre, which could include a small main food supermarket subject to Recommendations 3 and 6. Recommendation 3 states that the southern side of Union Street site should form the priority for any future retail strategy in Torquay Town Centre, and, where necessary, a restrictive approach should be taken to development elsewhere that could impede its delivery. Recommendation 6 is to increase the 'main food' retail provision within Torquay Town Centre by providing for a new food store as part of the Southern side of Union Street site or if not deliverable, the Town Hall car park.

The proposal does not accord with Recommendation 1 because whilst the site is located in a gap area for major supermarkets, it is not within a new Centre or a proposed new Centre. Furthermore, the recommendation states that new retail development should not be located in out-of-centre locations. In addition, the proposal does not accord with Recommendation 13 because even if the site was considered a potential site for a new centre, it would not accord with Recommendations 3 and 6, as it could impede delivery of retail development on the southern side of Union Street site and provision of a new food store in the Town Centre, including the Town Hall car park.

Notwithstanding the above, the 'Future Retail Development in Torbay – Clarification of Policy' supplementary guidance document carries little weight now because it was published before the NPPF, which is a more important material consideration in determining the application.

In terms of the impact of the proposal, the TDA has commented that the RIA does not adequately address the impact of the application on the emerging scheme on the Town Hall car park site. This scheme could enhance Torquay Town Centre from linked trips, helping to reverse leakage of spend on comparison goods. In addition, the entire available convenience capacity identified by GVA in the Torbay Retail Study Update 2011 would be required by the emerging proposal in the Town Centre (3,500 sq m nett by 2016, or 2,000 sq m nett if a new supermarket is provided in Brixham Town Centre). The applicant states in the RIA that there is 'room' for both stores in the market place. Even if this statement was true, it is considered that the priority should be to deliver a new store in the Town Centre first, then if there is still capacity for a second store and there are no more sequentially preferable sites an application for a store on the proposed development site might be looked upon by the Local Planning Authority more favourably. However, at this time the application should be refused in accordance with paragraphs 26 and 27 of the NPPF because it is considered likely that it would have a significant adverse impact on the delivery of a store on the Town Hall car park site if it is developed first.

In terms of the impact of the proposal on the Town Centre, District Centres and Local Centres, the applicant states in the RIA that the proposed store would have a total turnover of £21,600,000.00 (£19.5m convenience and £2.1m comparison). This would be drawn from existing expenditure at other locations and this impact is shown in Table 3 of Appendix 1 of the RIA. Despite the table showing that there would be a -19.5% (£-

7.1m) loss of turnover at Sainsbury's and Marks & Spencer at The Willows at 2016, which the RIA states is overtrading by around £10m, the table also shows that at 2016 there would be the following additional losses of turnover:

- 5.1% (£-0.8m) in Torquay Town Centre
- 10.2% (£-0.8m) in Plainmoor Local Centre
- 4.6% (£-0.4m) in St Marychurch District Centre
- 5.1% (£-0.2m) in Babbacombe Local Centre
- 9.6% (£-2.0m) in other local shopping facilities in Torquay (excluding Babbacombe and Plainmoor)

It is noted that the applicant has committed to provide 80% of the net retail floorspace for convenience goods and 20% for comparison, which is less than typical for modern supermarkets and would therefore have less impact on comparison retailers in the area. However, the above impacts are still considered significant and therefore likely to harm the vitality and viability of these centres. The applicant argues that there would be limited impact to Torquay Town Centre, as the impact would be spread between stores. This would also be the case for St Marychurch District Centre and here, like Babbacombe Local Centre, the trade diversion would mainly relate to top up shopping and the proposed store would be complimentary rather than in competition with the existing top up stores. This is considered to be a woolly argument and is not the case for Plainmoor Local Centre in any case, as the main impact here would be to the Waitrose major food store. The applicant argues that Waitrose has a wider catchment and perceived different offer than other major food retailers; therefore the impact of the proposal would be minimal. Again, this is considered to be a rather woolly argument given the scale of the impacts above and also risky to the health of Plainmoor Local Centre, as Waitrose is an anchor store for the centre and therefore very important to its vitality and viability.

The applicant also presents the impact of the proposal in combination with a new store on the Town Hall car park site in Table 4 of Appendix 1 of the RIA. Despite showing significant impacts on the centres above, this table isn't considered relevant as the application is for a single store and this approach doesn't follow the sequential test.

Whilst there have been many letters of support and objection to the application, it should be noted that the Traders of Babbacombe, Wellswood and St Marychurch group has objected, although some traders support. In addition, the applicant has made no formal offer to mitigate the impacts on local centres. Therefore, in consideration of the above, the proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, and should be refused in accordance with Policy S6 of the Local Plan and paragraphs 26 and 27 of the NPPF.

A material consideration is the employment creation of the proposal (225 jobs – 75 full-time and 150 part-time). However, given the issues above, this needs to be weighed against the potential loss of employment at existing stores in the area, as a result of loss of turnover. Therefore, this is not considered to be a sufficient material consideration to approve the application against the policies of the Local Plan and NPPF. Likewise, the fact the proposal would bring a part vacant brownfield site back into use is not considered to be a sufficient material consideration to approve the application against these policies.

2. The relaxation of the use of the building to allow the premises to be used as a

supermarket would lead to more traffic travelling to and from the site, which might impact on local highways. Despite this being raised as a concern in a number of representations, Highways/Strategic Transportation have raised no objections, subject to a Section 106 Agreement to secure contributions towards provision of a cycle link southbound on Babbacombe Road (£40,000.00), a bus shelter for the northbound direction (£6,500.00) and highway safety improvements at the Babbacombe Road/St Anne's Road junction (£35,000.00). Therefore, the proposal is acceptable in this regard, subject to completion of the S106.

3. The variation of Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays may have an impact on the amenities of the area in terms of noise and disturbance to local residents. The current permitted delivery times are 8am to 6pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays. However, Community Safety has no objections to the proposed delivery times. Therefore, they are considered acceptable.

S106/CIL -

A sustainable transport contribution of £81,500.00 is required for the following:

- Cycle link southbound on Babbacombe Road (£40,000.00)
- New bus shelter northbound on Babbacombe Road (£6,500.00)
- Highway safety improvements at the Babbacombe Road/St Anne's Road junction (£35,000.00)

If mitigation was offered for the impact of the proposal on local centres, this would also have to be secured in a S106 Agreement.

No S106 Agreement has been prepared for the application; therefore, it should be refused in accordance with Policy CF6 of the Local Plan.

Conclusions

In conclusion, whilst the proposed delivery times are acceptable, the proposal fails the sequential test as there is a suitable alternative site available in Torquay Town Centre for a store on the Town Hall car park that is currently emerging as a viable site to develop a supermarket on. In addition, the proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site and the vitality and viability of local centres, most significantly Plainmoor. Therefore, the application is contrary to Policy S6 of the Local Plan and paragraphs 24, 26 and 27 of the NPPF, and should be refused.

There are no material considerations to justify going against the above policies, including the location of the site in a gap area for major supermarkets identified in the supplementary guidance document 'Future Retail Development in Torbay – Clarification of Policy' and employment creation, as the proposal does not accord with the Recommendations of the former and this document is considered to have limited weight following the publication of the NPPF, and the impact of the proposal on local centres could lead to loss of employment elsewhere.

No S106 Agreement has been prepared to secure sustainable transport contributions; therefore, the application does not accord with Policy CF6 of the Local Plan.

Condition(s)/Reason(s)

01. The proposal fails the sequential test as there is a suitable site available in the Town Centre on the Town Hall car park. Therefore, the application is contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 24 and 27 of the NPPF. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration.

02. The proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site, contrary to paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to paragraphs 26 and 27 of the NPPF. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

03. The proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to these policies. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

04. No S106 Agreement has been prepared to secure necessary sustainable transport contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

Relevant Policies

SS	Shopping strategy
S6	Retail development outside identified
S9	District Centres
S10	Local Centres
CF6	Community infrastructure contributions
NCS	Nature conservation strategy
NC2	Protected sites - nationally important site
NC3	Protected sites - locally important site
NC4	Wildlife Corridors
NC5	Protected species
EPS	Environmental protection strategy
EP3	Control of pollution
EP4	Noise
EP6	Derelict and under-used land
EP7	Contaminated land
T26	Access from development on to the highway

Agenda Item 7

Application Number

P/2012/1208

Site Address

Combe Pafford School
Steps Lane
Torquay
Devon
TQ2 8NL

Case Officer

Mr Scott Jones

Ward

Watcombe

Description

Demolition of 2 existing teaching blocks and replace with 2 new educational facilities and central courtyard. The new accommodation includes:-

Block C - new teaching facility;

Block D - new hospitality learning facility and cafe and a new controlled access route provides vehicular and pedestrian access from Moor Lane.

Executive Summary/Key Outcomes

The proposal site is that of Combe Pafford School, a long-established educational site that caters for children who have moderate learning difficulties or autism. The school offers a progressive academic system integrated with vocational interests including animal care, horticulture, construction, motor vehicle mechanics and hairdressing, which coalesce with academic learning to offer pupils an environment designed for wider personal development.

The proposal seeks permission for two new educational facilities that will offer a new teaching block (Block C) and a new hospitality learning facility that is combined with a working community café (Block D). The facilities are located towards the Southwest of the site, to the West of the main building group, in an area where two buildings currently exist. The existing buildings are to be removed.

The proposed buildings are orientated to create a courtyard feature to offer a central focus for the site. The location of the buildings together with the associated access, limits the visual impact of the development whilst allowing access for public use and use to specific user groups without impacting the schools wider movement strategy.

The fundamental principle of further extension over the broad footprint identified is considered acceptable, as the general area currently offers two school buildings and the location appears a suitable one for any further school redevelopment/expansion. The suitability of the location is strengthened by the general constraint to development in the Northern part of the site, where there is

a swathe of playing fields and play space.

The scale and design of the proposed additions are considered to sit comfortably within the context of the adjacent buildings, and with the relationships across the sites' borders.

The design offers a mixed approach with Block C more industrial and traditional, aligning its character with the adjacent buildings and its expected use. Block D offers a more visually interesting and transparent building that will draw the eye, enliven the space, and aid with a pseudo-community use that is envisaged. This mixed approach is considered acceptable.

There are highway, drainage and arboricultural matters to be resolved, however Officer's consider that there is scope for these to be resolved through Planning Conditions or the submission of further information and/or amendments to the satisfaction of the relevant departments.

Recommendation

Site Visit; Conditional Approval delegated to the Executive Head of Spatial Planning with conditions to include arboricultural matters to the satisfaction of the Authority's Arboriculture Team, and drainage matters to the satisfaction of the Authority's Drainage Department; subject to the resolution of highway and transportation matters, in regard to access and management of the Northern access, being to the satisfaction of the Authority's Sustainable Transport Officer and Highways Department.

Site Details

A suburban school site that sits to the South of Moor Lane in Watcombe, Torquay, which is bounded by areas of residential use, Local Authority playing fields (to the East) and a further school site (to the West). The plot is loosely divided into an expanse of playing fields and play space to the North with school buildings contained to the South. The building group incorporates a variety of building designs as the school has expanded gradually over the years.

Detailed Proposals

School expansion scheme that seeks permission for two new educational facilities that will offer a new teaching block (Block C) and a new hospitality learning facility combined with a working community café (Block D), together with a form of access off Moor Lane from the North.

The new teaching block (Block C) sits as an extension to the existing Business and Engineering block (Known as Block B) and will echo the industrial form of the existing buildings, with brick and zinc metal roof cladding being the predominant

materials. The block is single-storey and covers a footprint approximately 15 metres by 12 metres.

The Hospitality Learning and Community Café block (Block D) has a more contemporary design and provides two pitched roof 'pods' that are interconnected by a single-story flat-roofed link. The two pods are to offer separate space for the hospitality learning and for the community café. The central link provides a central operational area for the kitchen space and ancillary facilities that would serve both of the pods. The pitched-roof pods are finished in zinc metal roofing and are scaled to future-proof potential first floor expansion. The central link is largely finished as a green roof. Elevations feature a mix of glazing, timber cladding and metal cladding. Block D covers a footprint loosely 25 metres by 11 metres.

Aside the proposed buildings the scheme includes a Northern access off Moor Lane adjacent to the tree-lined border with Watcombe Primary School. The proposal shows a gated and bollarded entrance that will offer access to the community café and Hospitality Learning Block, which will be retained where necessary to manage the drop in levels towards this area. Cycle parking and a degree of car parking are also shown on the plans.

Summary Of Consultation Responses

Re-produced at Page T.200.

Arboricultural Officer: That the scheme be suitable for approval on arboricultural merit if the following points can be addressed by way of pre-commencement conditions as follows

- Detailed landscaping plan to be submitted and approved to define replacements for the 3 trees lost.
- A detailed submission in line with B.S5837 2012 Trees in Relation to Design, Demolition and Construction Recommendations to be submitted

South West Water: No objection subject to foul flows only being connected to the public sewer.

Drainage Department: The applicant should provide details of how treated effluent is to be disposed of and the detailed design of the soakaways.

Highway/Sustainable Transport Officers: No objection in principle, key matters raised are;

- The proposed access path should be primarily and overwhelmingly a pedestrian/cycle path and designed as so, especially given the desire for the

public to walk in.

- The entry point is closed at all times, except when unlocked by school staff to facilitate occasional and infrequent access by minibuses and coaches bringing in students / visitors who need to be dropped off right at the front door of the new facilities.

- A minibus / coach turning area is required by the new facility. Private car individual drop off parking is not an acceptable component.

- Service vehicles should not use the new access, and instead need to use the existing on site road. A condition should also be required to keep the existing road and proposed new access path separate as a circuit around the site must be discouraged given the unsuitability of having a second vehicular access onto Moor Lane in close proximity to Watcombe Primary's own access.

- The access onto the Adopted Public Highway at Moor Lane, given its intended use for more than just pedestrians, will need to have a suitable visibility. Current guidance is 43m at 2.4m back from the carriageway in each direction unless speed readings can prove a lower 85th percentile speed along Moor Lane.

- The access road, due to its length, should have a passing bay. This appears to be provided for near to the access onto the highway in the submitted drawing, and therefore would satisfy this criterion. Further detailed drawings are required to confirm this.

- Given the proposed security bollard / gate to the access road, it must be clearly visible as a vehicle approaches along Moor Lane to ensure no prohibited vehicle attempts to gain access, and is then forced to reverse back out again onto the highway.

Summary Of Representations

None received.

Relevant Planning History

There is an extensive planning history for the site covering various large and small scale matters. The most pertinent proposals in the past 10 years are as follows;

P/2011/0387 Extension to form office/interview room to side of existing classroom block - PER - 03/06/2011

P/2009/1195 Construction of vocational training centre - PER - 28/01/2010

P/2008/0022	Formation Of Business And Enterprise Centre - PER - 22/07/2008
P/2007/1457	Ground And First Floor Mobile Classroom With Toilets And Changing Rooms With Showers And Stores - PER - 20/11/2007
P/2003/1486	Erection Of 4 New Classrooms; New Multi-Purpose Hall, And Associated External Works - PER - 27/10/2003

Key Issues/Material Considerations

Principle and Planning Policy -

The most directly relevant Local Plan Policy is that of CF10 *New schools and improved school facilities*. The policy provides for the improvement and expansion of existing school facilities providing the following four criteria are met:

- 1) The sites for new schools are well related to residential areas
- 2) School sites are of a sufficient size to accommodate the design and layout
- 3) Proposals have regard to the need to safeguard existing playing fields
- 4) Proposals can be accommodated without undue detriment to surrounding residential areas

Considering the context of the site and policy guidance the key issues in respect of this application are:

1. Design and Visual Impact
2. Neighbour Amenity
3. Highway Implications
4. Arboricultural Implications

Each of these matters is addressed in turn below.

1. Design / Visual Impact

The proposed buildings are sited to the South-western part of the site and the development area appears to sit as a natural location for redevelopment or extension to the existing cluster of buildings. The proposal seeks to provide a scheme of expansion in an area of the site in which buildings already reside and sit aside the established building group contained within the Southern portion of the site. The development area is therefore considered an acceptable area for further development, maintaining the swathe of play areas to the North and a pragmatic solution given the site's constraints.

The scale of the proposed blocks are considered appropriate in relation to the

bulk and massing of the existing school buildings and the extent of the plot that they sit in. The mixed form of building proposed is considered acceptable in relation to the visual characteristics of the wider site. Block C (new teaching block) sits as a natural extension to the industrial character of the adjacent building and Block D (Hospitality Learning and Community Café) offers a more contemporary and visually interesting solution for use that seeks to connect to the wider community and draw people in to the site off a long permissive access. Within an area with such a diverse building form each solution is considered acceptable.

All matters considered the proposal is a positive expansion that responds to the sites development constraints and the schools requirements for minimising further access through the site through secure areas.

There are matters of detail, especially of the access route and extent of retaining walls, which require establishing through further information and/or planning condition, it is considered that appropriate development can be achieved through planning conditions or minor alterations to current plans.

2. Neighbour Amenity

The location of the two blocks offers development that sits comfortably within the borders of the site and is unlikely to affect neighbouring amenity levels. The nearest user to the proposed development is the adjacent school site of Watcombe Primary School to the West and when considering the scale of the development and the similarity of use there are unlikely to be any affects across this border. Residential properties to the North sit to the other side of Moor Lane and are further than 100metres from the nearest of the two blocks proposed. To the Southeast residential properties are nearer, however they still sit some 60-70metres away. Due to the distances involved residential amenity levels are unlikely to be affected.

3. Highway Matters

The access arrangements have evolved from the aspiration to offer further teaching facilities and a community café within a central location of the site.

Within the context of the schools managed access arrangements and the necessity to provide access without compromising the schools wider operations, a direct route to the buildings off Moor Lane is considered essential to the developments operation and ambitions to link with the local community.

The model of a permissive pedestrian route that also offers some form of limited and managed vehicular access for specific user groups by arrangement, is considered achievable subject to detail regarding materials and finish of the route, parking levels at its culmination, and details of the access gate and bollard arrangements. These matters are considered achievable via further information and/or revised plans to remove permanent parking spaces in favour of a hatched

drop-off and pick-up area, together with planning conditions attached to any approval for detail on the surface finish and extent of retaining walls. In addition to the technical highway detail there would also need to be some further detail in relation to visual impact and arboricultural implications upon the trees aligned to the route.

4. Arboriculture

The site does not sit within a Conservation Area or within an area with individual or area Tree Preservation Orders and hence tree specimens present are protected at this time. The Council's arboricultural officer has however highlighted that the boundary trees aside the proposed access lane are of some landscape value and hence consideration towards their protection and future health should be forthcoming.

Following consideration, the scheme is currently considered to be suitable for approval on arboricultural merit if the following points can be addressed by way of pre-commencement conditions;

- Detailed landscaping plan to be submitted and approved to define replacements for the 3 trees lost.
- A detailed submission in line with B.S5837 2012 Trees In Relation to Design, Demolition and Construction Recommendations to be submitted

S106/CIL - N/A

Conclusions

The fundamental principle of expansion is considered acceptable as the site is considered to have the attributes to comfortably accept the scale of development.

The scale and design of the proposed blocks are considered to sit comfortably within the context of the adjacent buildings and the relationships across the sites borders.

The design, which offers a mixed approach with Block C more industrial and traditional, aligning itself with the adjacent buildings and expected use, and Block D offering a more visually interesting and transparent building that will enliven the space and aid with a pseudo-community use that is envisaged. This mixed approach is considered acceptable.

There are highway, drainage and arboricultural matters outstanding, however Officer's consider that there is scope for these matters to be resolved through Planning Conditions or the submission of further information and/or amendments to the satisfaction each department.

Conditions to include;

- Drainage matters
- Arboricultural matters
- Materials
- Detailed design
- Details of access including materials and retaining structures
- Revised parking arrangements in favour of a drop off point
- Management strategy for the access
- Management of the café ancillary to the school and learning facility

Relevant Policies

- BES Built environment strategy
- BE1 Design of new development
- CFS Sustainable communities strategy
- CF10 New schools and improved school facilities
- T25 Car parking in new development
- T26 Access from development on to the highway
- LS Landscape strategy
- L9 Planting and retention of trees

Agenda Item 8

Application Number

P/2012/1228

Site Address

Redstones
Cockington Lane
Torquay
Devon
TQ2 6XD

Case Officer

Mr Alexis Moran

Ward

Cockington With Chelston

Description

Demolition of house and conservatory; erection of 3 bedroom replacement dwelling; use of existing studio as dwelling during rebuilding and use thereafter as guest accommodation; alterations to existing access to Cockington Lane and provision of private sewerage system

Executive Summary/Key Outcomes

The key issues to consider in relation to this application are whether the proposed accommodation and change of use to the land from agricultural to residential would have a detrimental impact on the character and appearance of the Conservation Area, AGLV and the Countryside Zone.

The landholding is located within a Countryside Zone, policy L4 of the saved adopted Torbay Local Plan 1995-2011 states that non-agricultural buildings would normally be resisted, but alterations or extensions to existing buildings may be permitted in appropriate circumstances i.e. provided that the rural character, wildlife habitats and historic features are not adversely affected. In this instance the proposal is deemed to be contrary to policy L4.

Within an AGLV development likely to affect the designation will only be permitted where it will maintain or enhance the special landscape character of the area as set out in policy L2 of the saved adopted Torbay Local Plan 1995-2011. The proposal is not considered to comply with this policy.

Development within a Conservation Area will normally only be permitted where it preserves or enhances the character of the Conservation Area (policy BE5). The size, design and the addition of further buildings and structures including a terrace, and additional hardstandings are considered to be detrimental to the character and appearance of the Cockington Conservation Area and is therefore considered to be contrary to policy BE5 of the saved adopted Torbay Local Plan 1995-2011.

The proposal is therefore not considered to be acceptable and the recommendation for this application is one of refusal.

Recommendation

Refusal

Site Details

The building, Redstones, Cockington Lane, Torquay, has a lawful use as a single dwelling house, this does not include the conservatory and does not have a curtilage. The remainder of the land remains as agricultural and should be in use as such. Any other use would be a criminal offence as it would be in breach of the enforcement notice (APP/X1165/C/10/2121509).

The site lies within the Cockington Conservation Area, a Countryside Zone, an Area of Great Landscape Value and a Local Wildlife Site (Cirl Buntings).

A site visit was undertaken on the 18th December 2012.

Detailed Proposals

The application seeks permission for the demolition of the existing building which has a lawful use as a single dwelling and the demolition of the conservatory. The proposal is then for the formation of a new dwelling with vehicular access to Cockington Lane. With the use of a separate unit described as a studio as a dwelling while new dwelling is in construction and as guest accommodation thereafter.

Summary Of Consultation Responses

Arboricultural Officer Due to the constraints of the Conservation area and presence of the TPO trees adjacent until a full arboricultural implication study is submitted accompanied by a detailed tree survey a recommendation cannot be given.

Summary Of Representations

A total of 3 letters of representation have been received which relate to the development being:

- unsustainable
- the detrimental impact it would have on the Cockington Conservation Area, the Area of Great Landscape Value (AGLV) and the Countryside Zone
- poor design
- increase in vehicle movements
- potential to set a harmful precedent

These letters are included in the Late Representations pack.

Relevant Planning History

P/2012/042 Demolition of dwelling and conservatory; formation of new dwelling with vehicular access to Cockington Lane; use studio as dwelling while new dwelling is in construction and as guest accommodation thereafter; alterations to studio – application was refused by delegated powers 22.06.2012. However the Planning Inspectorate did not consider that a D&A had been submitted as part of the application and therefore a free resubmission was offered to the applicant.

P/2011/0730 Demolition of dwelling and conservatory; formation of new dwelling with vehicular access to Cockington Lane; use studio as residence while new dwelling is construction; application withdrawn 22 November 2011

P/2011/0778 Conservation Area Consent; Demolition of dwelling and conservatory; application withdrawn 22 November 2011

Key Issues/Material Considerations

The key issues to consider in relation to this application are whether the proposed accommodation and change of use to the land from agricultural to residential would have a detrimental impact on the character and appearance of the Conservation Area, AGLV and the Countryside Zone.

The effect of the Inspector's amendments to this enforcement notice is that only the single structure in which the applicant lives has a lawful use for any residential purposes and there is no residential curtilage.

This means that;

- Irrespective of the submitted drawings, only the site of the existing 'residential building' has a lawful residential use; and
- unless the landowner is using the remainder of the land for agricultural purposes (this doesn't constitute 'development') then it shouldn't be used at all – any other use being a criminal offence as it is in breach of the enforcement notice

The landholding is located within a Countryside Zone, policy L4 of the saved adopted Torbay Local Plan 1995-2011 states that non-agricultural buildings would normally be resisted, but alterations or extensions to existing buildings may be permitted in appropriate circumstances i.e. provided that the rural character, wildlife habitats and historic features are not adversely affected. It is considered that in this instance the increase in footprint of the existing lawful building, the retention and extension of unlawful buildings and the change of use to the land from agricultural to residential would be of detriment to the rural character of this area and would potentially encourage the merging of urban areas to the detriment of the rural character of the area. Therefore the proposal would be contrary to this policy.

Within an AGLV development likely to affect the designation will only be permitted where it will maintain or enhance the special landscape character of the area as set out in policy L2 of the saved adopted Torbay Local Plan 1995-2011. It is deemed that the increase in the size of the existing lawful building, the addition of further buildings and hardstanding and the removal of trees would have a detrimental impact on the local character of the area and would therefore be contrary to policy L2 of the saved adopted Torbay Local Plan 1995-2011.

Development within a Conservation Area will normally only be permitted where it preserves or enhances the character of the Conservation Area (policy BE5). The size, design and the addition of further buildings and structures including a terrace, and additional hardstandings are considered to be detrimental to the character and appearance of the Cockington Conservation Area and is therefore considered to be contrary to policy BE5 of the saved adopted Torbay Local Plan 1995-2011.

Policy NC3 which related to Locally Protected Sites states that development will only be permitted where..,

- There are no reasonable, less damaging alternative sites;
- The reasons for the development outweigh the harm
- Every effort has been made to minimise and mitigate against the effects of the development

The proposal is not considered to comply with this policy as the reasons for it do not outweigh the harm and no effort has been made to minimise or mitigate against the effects of it.

The application proposes a new vehicular access along Cockington Lane which would require further excavation of the existing Devon bank on the boundary which is considered to be contrary to policy L8 of the saved adopted Torbay Local Plan 1995-2011.

There is potential that trees protected by both or either the Conservation Area or Tree Protection Order (1971.41) could be affected which would further harm the Conservation Area, AGLV, Countryside Zone and Locally Protected site.

The hardstandings are likely to cause water run off to drain into Cockington Lane rather than to return to the water table in a sustainable way. Due to the steep nature of the area the likely impact of this is that material from the site will be washed onto the road and into the stream some 100 metres down the road.

Bearing the above points in mind it is considered that the proposed development is not acceptable for planning approval.

S106/CIL -

The application has been assessed against the Council's policy in respect of planning contributions. A contribution will be required in this case, calculated as follows:

On the basis that the new accommodation will comprise of a residential unit with over 120sq metres of gross internal floor area:

Contribution for dwelling:	
Waste Management	£ 50.00
Sustainable Transport	£ 3,610.00
Lifelong Learning	£ 470.00
Greenspace and Recreation	£ 2,370.00
Total for Development	£ 6,500.00

Conclusions

The proposed development is not 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 development due to its size, siting, location, design, scale, impact on the character, appearance and nature of the area and the overall increase and intensification of residential activity is considered to be unacceptable and contrary to policies, BES, BE1, BE5, L2, L4, L8, H2, NC3, T25 & T26 of the saved adopted Torbay Local Plan 1995-2011.

02. Provision has not been made for the payment of a sustainable development financial contribution, in accordance with the adopted policy of the Local Planning Authority, as set out in the document “ Planning Contributions and Affordable Housing, Supplementary Document Update 3, Economic Recovery Measures April 2011” and policies CF6 & CF7 of the saved adopted Torbay Local Plan 1995-2011.

0.3 The “studio” building does not have the benefit of planning permission and its proposed use as residential accommodation would regularise a structure of a poor quality, with no further information regarding its design and appearance. Their use for residential purposes detached from the principle dwelling will increase the residential use of the site and potential lead to increased pressure for further separate units of residential accommodation. The siting, design and use of this structure would be contrary to policies, BES, BE1, BE5, L2, L4, L8, H2, NC3, T25 & T26 of the saved adopted Torbay Local Plan 1995-2011.

Relevant Policies

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Application Number

P/2012/1231

Site Address

15 Newton Road
Torquay
Devon
TQ2 5DB

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Formation of 4 flats in site curtilage (In Outline) Revised scheme

Executive Summary/Key Outcomes

This elevated garden site abuts the north eastern side of Newton Road as it approaches Torquay town centre. There is a history of approvals for residential development, most recently for 2 family homes, which was approved in 1990. An appeal against a refusal to renew this permission was dismissed on the grounds of poor visibility for emerging vehicles only.

This application, which is in outline, with all matters reserved proposes 4 50m² flats with no on site car parking. Highways are supportive of this due to the sustainability of the location. A previous application for 4 small flats on this site was withdrawn. This was following advice from officers that the application would be recommended for refusal due to the very elongated character of the building, which was considered to be out of character with the form of building in the area. It was thought this would have affected the character with the street scene and thereby the setting of the adjacent Torre Conservation Area.

This application has been amended by reducing the footprint, recessing the entrance feature which reduces the monolithic character and adopting a more traditional design. It is thought this overcomes previous concerns about design. However, it must be noted that this application is submitted in outline with all matters (including design) reserved for future consideration.

Recommendation

Conditional Approval: Subject to the completion of a S106 agreement within 3 months of the date of this committee meeting to secure the Community Infrastructure Contributions [at the applicant's expense], with conditions as set out at the end of this report. In the event that the 106 agreement is not completed within 3 months of the date of this committee, that the application be refused for reason of the lack of a s106 agreement.

Site Details

The site comprises a detached domestic dwelling with a long, narrow elevated garden area which is bounded by a high stone retaining wall which extends along Newton Road close to the junction with Barton Hill Road.

To the north east of the application site the land rises again and the site is backed by a further high stone retaining wall which forms the garden boundary to domestic dwellings on Barton Hill Road. Generally, the character of development in the immediate area is quite mixed. On the opposite side of Newton Road are found sizeable Victorian Villas which are largely in hotel use. These are located in the Torre Conservation Area. The northern side of Newton Road has been developed with post war properties of a more domestic size and scale and in a range of differing styles and characters.

Planning permission has been granted twice in the past for residential development on this site but it is now lapsed.

Detailed Proposals

This application is an outline application with all matters reserved and is for the construction of 4 50m² flats on the site with pedestrian access only being provided via an excavated lobby from Newton Road.

Summary Of Consultation Responses

Highways: Given the proximity to the town centre and bus routes no objection is made to the lack of car parking. The sustainable transport contribution of £5060 should be put towards the enhancement of cycling infrastructure in the vicinity. 1 bike parking space per unit should be available.

Drainage: The application indicates that surface water is to be disposed of by soakaways but no details are provided about the capacity of the ground to cater for this. For this reason the Drainage engineer has asked that filtration tests be carried out before permission is granted.

Summary Of Representations

There have been 2 letters of objection concerned with parking, traffic congestion, pedestrian safety, impact on the highway retaining wall and quality of living accommodation to be provided. A further letter was received in connection with the withdrawn application about the integrity of the stone retaining wall which supports the contributor's garden. These have been re-produced at Page T.201.

Relevant Planning History

P/1988/0452	Erection of 1 dwelling: Refused 21.04.88. Subsequent appeal dismissed.
P/1988/2785	Erection of detached house; Approved 17.02.89
P/1990/0500	Erection of 2 dwellings; Approved 15.05.1990
P/1995/1063	Renewal of above. Refused, subsequent appeal dismissed 17th March 2003.
P/2011/0272	Erection of 4 flats: Withdrawn.

Pre app discussions in relation to 3 storey building with 8 flats not encouraged due to amenity and traffic concerns.

Key Issues/Material Considerations

The main concerns relate to the principle of garden development, scale of development on site, impact on neighbours, quality of accommodation provided, lack of parking, pedestrian and highway safety, appearance and impact on retaining walls. Each of these will be addressed in turn.

Principle and Planning Policy -

The relevant planning policies relate to the quality of the residential environment, its relationship to neighbours, its appearance and the impact on the highway network.

Principle of Garden Development

Planning guidance in relation to garden development has been subject to change in recent years from encouragement to maximise the use of suitable garden land to provide housing opportunities to moves to resist 'garden grabbing'. The most recent guidance in the NPPF suggests that LPA's should consider the case for setting out policies to resist inappropriate development of residential gardens, where development would cause harm to the local area. The use of garden land for housing development is normally resisted unless it can be shown that its use produces a form of development that is in character with surrounding development, there are no adverse impacts on amenity nor does it result in overdevelopment of the site. The garden in question is of a size that could accommodate a suitable level of new development without compromising the amenity of the parent property, it is not 'backland' which does tend to lead to problems of amenity and it forms a backdrop to the main approach to Torquay where sporadic building in garden plots is not wholly out of character. Past history indicates that the site has been previously considered suitable for residential development.

The refusals of planning permission were based solely on the car parking arrangements which were considered to be unsafe in terms of highway safety, rather than on the principle of garden development and this concern was

supported on appeal.

Scale of Development on Site/Impact on Neighbours/Quality of Accommodation

Whilst all matters are reserved, illustrative plans indicate 4 one bed flats in a 2 storey building measuring 27m by 6m. It has a bigger footprint but is lower in height than the previous approval for 2, 3-storey 3-bed dwellings which were approved in 1990. It represents a similar density of occupation.

The scheme maintains sufficient amenity space for the parent property and the proposed scheme is not unduly cramped or likely to suffer from a poor quality residential environment arising from a lack of space. In terms of amenity, it is sufficiently well removed from its neighbours to undue impact in terms of privacy or overlooking.

Highway Safety/Lack of parking

Previous refusals of planning permission on the site were based on concerns about highway safety arising from arrangements to provide on-site car parking. This involved excavating through the existing stone retaining wall to ground level to provide garaging/open car parking. The most recent appeal decision, in relation to the refusal to renew the approval for 2 dwellings found against this on the grounds of poor visibility only.

The applicant therefore contends that if no on-site parking is provided, then the Inspectors concerns are overcome. Planning policy in relation to car parking has modified in the intervening years and there is flexibility on sites which are sustainably located with convenient access for public transport and local services such as this one. Bike storage is provided within the pedestrian lobby. The site is also located close to a bus stop and to a railway station. On street car parking, albeit heavily used is available along the frontage of this property. Highways have indicated support for this approach.

Appearance

This is a reserved matter. The site is located in an elevated position adjacent to the northern boundary of the Torre Conservation Area and so it is important to consider whether the broad form of the proposed building is capable of being accommodated in a way that fits with the overall grain of the area and does not therefore adversely affect the setting of the conservation area.

The withdrawn application indicated an elongated 'monolithic' building form with a flat roof and of a quasi Art Deco design. It was considered that this was out of character with the prevailing grain of the area and was withdrawn on advice that it was unacceptable on design grounds. The shape of the site severely constrains the form that any building can take.

However, in this revised scheme, the footprint has been slightly reduced; the entrance feature recessed to introduce a less 'blocky' more modulated form of

building and it has taken on a more traditional appearance of render and pitched roofs which do reflect the character of adjacent buildings to the north of Newton Road.

Impact on Stone Retaining Walls

The implementation of this scheme will require works to the stone retaining walls adjacent to the public highway and to the garden retaining walls to ensure their long term stability. This is not a planning but a civil matter. The applicant has been advised of the need to reach a party wall agreement with affected residents. This issue was raised in the appeal and carried no weight.

S106/CIL -

A S106 will be needed to meet community infrastructure in line with the adopted SPD. This will now need to comprise an SDLR contribution in line with Council policy, as adopted on 06 December 2012. In addition the sustainable development contributions as set out below will be required to mitigate the impact of the development:

Waste	£ 200
Sustainable transport	£5040
Lifelong learning	£ 640
Greenspace	£2200

Conclusions

There has been a long history to development on this site. Planning permission was most recently granted for 2 family dwellings. An appeal into an application to renew this permission in 1995 was dismissed only on the grounds of poor visibility. The applicant has sought to overcome this by deleting the car parking and providing smaller units of accommodation which arguably rely less on accessible car parking than family homes. Given the sustainable location of the site, Highways are not concerned about the lack of car parking.

In terms of the scale of development on site, it does not lead to any quantifiable problem in terms of impact on the parent property, impact on neighbours, overdevelopment or poor quality of residential accommodation.

It is not dissimilar to the density of occupation arising from previous approvals on the site. It is considered that the design approach is now acceptable and does reflect the appearance and form of adjacent buildings to the north of Newton Road.

Relevant Policies

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Agenda Item 10

Application Number

P/2012/1264

Site Address

Land Rear Of Edinburgh Villas
Off McKay Avenue And Newton Road
Torquay
Devon

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Development of site comprising 25 Retirement Living Apartments and 50 Assisted Living Extra Care Apartments with associated parking, landscaping and servicing and communal and care facilities.

Executive Summary/Key Outcomes

There is a long history to the development of this site which forms part of the former South Devon College. The site was originally included in the Master Plan for Torre Marine as the site is now known.

Permission was granted originally for 61 sheltered flats with 1500 m2 of office accommodation in a building that extended up to 7 stories. As the permission for the wider site has been implemented, this could be built out at any time.

Planning permission was granted in 2010 for deletion of the office accommodation and use of the whole building for 'higher dependency' extra care accommodation.

A start on site was made but mothballed due to the state of the housing market.

This application seeks to vary the tenure of the units and deliver 50 extra care and 25 sheltered units. The main issues are the level of car parking and the adequacy of the S106 'Loss of employment floorspace' contribution negotiated in relation to the 2010 application which saw the office floorspace deleted.

There are minor changes to the design to accommodate the split between extra care and sheltered accommodation but essentially the building is of the same size and appearance as the previous approvals on the site.

Recommendation

Conditional Approval: Subject to the conclusion of an amended S106 agreement at the applicants expense by the 24th February 2013 to secure the heads of

terms highlighted below and conditions as detailed at the end of this report. In the event that the s106 is not completed by 24th February 2013, the application be refused for reason of a lack of s106 agreement.

Site Details

This vacant site originally formed part of the old South Devon College before it was redeveloped for housing purposes. It is located to the north-west of Edinburgh Villas with the Foyer Project to the east, Kwik Fit to the south-west and the completed streets of Torre Marine to the north. These comprise 2 storey terraces on Mckay Avenue with taller bookend buildings which terminate the junction with Richardson Walk.

This site was included in the Master Plan for Torre Marine and was to provide 61 category II Sheltered units in a building that extended up to seven stories with office floorspace on the ground floor and in a discrete block to the north and included 42 car parking spaces.

The site is at a key location in terms of views and routes through the wider development site and key areas of public realm about its boundaries.

McCarthy and Stone purchased the site soon after development was commenced on the wider site and have made 2 starts on site which have both been mothballed due to the state of the housing market.

As the permission for the wider development has been implemented, the permission to construct the 61 sheltered units and office floorspace remains live in perpetuity and can be built out at any time.

Detailed Proposals

This is a detailed application for the construction of 50 extra care apartments [30 x 1 bed and 20 x 2 bed] and 25 sheltered apartments [19 x 1 bed and 6 x 2 bed] with communal facilities, 32 car parking spaces and space for 19 mobility scooters. The building scales up from 4 to a maximum of 7 stories in height. It is largely rendered, with balconies, a brick plinth and curved metal roofs.

Summary Of Consultation Responses

Highways: Have no objections to the scheme.

Summary Of Representations

No representations at the time of writing; any received will be reported in late representations or verbally at the meeting.

Relevant Planning History

P/2005/0138: Redevelopment of South Devon College to provide 258 residential units, 61 Sheltered units and 1500 m2 office floorspace. Approved: 30.09.05

P/2007/0968: Amendments to the approved scheme comprising changes to

balconies, fenestration and roof detail. Approved: 9.08.07
P/2010/1389: Construction of 75 extra care units with 32 car parking spaces:
Approved.

Key Issues/Material Considerations

There are 2 key issues: The level of car parking and the adequacy of the S106 contribution in relation to the 'loss of employment floorspace'

Car Parking

In relation to car parking, this has long been a contentious issue in the area. A reduction in car parking levels from 42 to 32 spaces was agreed in relation to the 2010 scheme. Whilst this was due largely to the deletion of the office floorspace from the scheme, it was also thought to be acceptable as the accommodation was all 'high dependency' thus having a reduced need for on-site car parking.

The change now proposed involves a third of the units being sheltered rather than extra care and so potentially accommodating more 'mobile' residents. For this reason, the applicants were asked to commission an assessment of the car parking to be provided. This looked at the management of spaces, average age of residents, car ownership rates and the trip rates generated on similar schemes. It concludes that this level of car parking is appropriate given the location of the site and nature of occupation. Furthermore, Highways raise no objections to the proposal.

S106 Loss of Employment Floorspace Contribution

The scheme for 61 flats can be built out with no further contributions.

In relation to the 2010 scheme, contributions were sought on the uplift only; this delivered SPD Community Infrastructure Contributions, 30% affordable housing contributions and a 'loss of employment floorspace' contribution to compensate for the loss of office space. This was mitigated to a degree by the fact that the scheme was high dependency and would have by its nature delivered more jobs than a standard sheltered scheme. Now that a third of the units have reverted to sheltered accommodation and the employment generation opportunities reduced it is appropriate to revisit the figure agreed and consider whether it is still appropriate. The matter is being discussed with the applicant and the response will be reported verbally.

In addition, given that the Council has adopted (on 6th December 2012) a new policy in relation to s106 contributions, it will be necessary to include a contribution for each of the 13 additional dwellings in relation to the South Devon Link Road.

Conclusions

The changes proposed to the nature of the occupation of the site are considered acceptable in principle and on parking grounds. In terms of the impact on employment opportunities, providing an enhanced figure to compensate for the

reduced employment capacity of the site can be agreed this is also considered to be acceptable.

Recommendation:

Conditional Approval; subject to the conclusion of a S106 Agreement at the applicants expense by the 24th February to secure the contributions as agreed in relation to P/2010/1389 and an enhanced loss of employment floorspace contribution and subject to the conditions detailed below. In the event that the s106 is not completed by 24th February 2013, the application be refused for reason of a lack of s106 agreement.

01. Prior to the commencement of development on site, details at a scale of 1:20 of key features of the building shall be submitted to and approved in writing by the LPA. These details shall show:

- a) Windows and doors showing materials, means of opening, position within the reveal glazing bars and profiles.
- b) Balconies.
- c) Eaves detail.

Reason: To ensure that the detailed appearance of the building is acceptable and to accord with policies BES, BE1 BE5 of the Saved Torbay Local Plan 1995-2011

02. Samples of all materials to be used in the construction of the building and on all external surfaces shall be submitted to and agreed in writing by the LPA. Thereafter, the materials, as agreed shall be used in the construction of the building.

Reason: To ensure that the detailed appearance of the building is acceptable and to accord with policies BES, BE1 BE5 of the Saved Torbay Local Plan 1995-2011.

03. Full details of the landscape scheme, including species, sizes and densities of all the trees, shrubs and plants comprised within the conceptual scheme included in the approved plans, shall be submitted to and approved in writing prior to the commencement of development on site. Thereafter, the approved scheme shall be implemented on site in the first available planting season following completion of development or occupation of the scheme whichever is the sooner. Any trees, plants or shrubs that become diseased, die are damaged or removed within a 5 year period shall be replaced with others of a similar size and species in the first available planting season unless otherwise agreed in writing with the LPA.

Reason: To ensure that the site is properly landscaped and the building provided

with an appropriate setting in line with policy BE2 of the Saved Torbay Local Plan 1995-2011.

04. The assisted living extra care accommodation hereby approved shall only be occupied by residents of who at least one is a 'qualified person' at the date of his or her first occupation of the unit in question. A qualified person means a person who is or has attained an age of 70 years and is in need of care by reason of old age or disablement. An occupier of one of the individual units who is not a qualified person must share, or have shared with a 'qualified person' and must have attained the age of at least 60 years. The sheltered accommodation hereby approved shall be occupied similarly by persons who have attained 60 years of age.

Reason: The application is for accommodation for frail elderly, the decision has been made on this basis and as a consequence, reduced parking levels and amenity space are considered acceptable. Occupation by residents who were not in need of care would require higher provision of such facilities in accordance with policy T25 of the Saved Torbay Local Plan 1995-2011.

05. There shall be no reduction in the level of communal provision throughout the building from that shown in the approved plans unless agreed in writing with the LPA.

Reason: To ensure that an adequate level of communal provision is retained on site in the interests of meeting the needs of future occupiers of the site and to accord with the particulars of the application and with policy CF15 of the Saved Torbay Local Plan 1995-2011.

06. Prior to the occupation of the accommodation hereby approved, a staff and resident Travel Plan along with a detailed programme for implementation, shall be submitted to and approved in writing by the LPA. This shall look at ways of promoting more sustainable means of movement for both staff and residents and shall be tied to biennial reviews.

Reason: To promote more sustainable means of movement and to accord with policies TS and T2 of the saved Torbay Local Plan 1995-2011.

07. Full details of the provision of covered and lit cycle storage shall be submitted to and approved in writing by the LPA prior to the commencement of development on site. Thereafter, the agreed cycle storage shall be put in place prior to occupation of the building and permanently retained on site.

Reason: To ensure that facilities for cycling are available to meet the needs of staff and more active residents in accordance with policies TS and T2 of the Saved Torbay Local Plan 1995-2011.

08. Prior to its installation, full details of the public art feature to be located along the ground floor of the North Elevation and as shown on Plan No.PA-1541-104 rev E shall be submitted to and agreed in writing by the LPA. Thereafter, the public art feature shall be constructed in accordance with these details, prior to occupation of any of the approved flats, unless otherwise agreed in writing with the LPA.

Reason: To ensure that this is delivered and to an acceptable standard in accordance with policies BES and BE1 of the Saved Torbay Local Plan

Relevant Policies

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Agenda Item 11

Application Number

P/2012/1223

Site Address

Kings Ash House
Kings Ash Road
Paignton
Devon
TQ3 3XZ

Case Officer

Mr John Burton

Ward

Blatchcombe

Description

Demolition of office building; change of use to residential and erection of 14 dwellings with associated parking and off-site works

Executive Summary/Key Outcomes

This application represents a distinct improvement on that which could currently be implemented and which was granted on appeal against the determination made by the Council previously. The extant scheme is for 29 small residential flats, which would not meet the current requirements of the Torbay housing market. This current proposal provides for larger family sized dwellings and these would be more saleable and sought after, thus better fulfilling the current needs of the Torbay housing market. The reduction in unit numbers would also place less strain on the already busy principal traffic route of Kings Ash Road. So this is an added and beneficial improvement.

This new scheme proposes suitably sized family houses with adequate amenity space, parking and access. As a consequence, there is also a big improvement in design which now proposes individual traditional family houses as opposed to a large single block of residential flats. However, the suggested design is a little bland and negotiations are in hand to try and improve the appearance and layout of the units.

It should also be understood that the Council had not actually approved the previous permission for flats, the approved scheme only having gained consent on appeal.

It is considered that there is very little to commend the previous scheme, and a good understanding that the current proposal vastly improves upon that which could be built in terms of the type and size of units.

Therefore, subject to the negotiations on improving the design, the completion of a Planning Agreement under s106 of the Act, a Member site visit and the suggested conditions, it is recommended that the proposal should be approved.

Recommendation

Committee Site Visit; subject to negotiations on the design of the dwellings (layout and appearance) and the successful completion of a Planning Obligation under s106 of the Act (before the expiration of the 13 determination date), Conditional Approval. In the event that the 106 agreement is not completed in time to issue the consent within 13 weeks, the application be refused for reasons of a lack of a 106 agreement.

Site Details

Site of Kings Ash house, a two-storey office building, situated on the east side of Kings Ash Road, south of Fernicombe Road and north of Whitebeam Close. The building is located on a low ridgeline along Kings Ash Road and is visible in the wider landscape.

Detailed Proposals

Permission is sought for 14 detached and semi-detached properties arranged in two rows across the width of the site. Each property has access to a vehicular garage, some attached, some free standing, but all with a further space in front, making a total of two off street parking spaces available per dwelling.

Access into the site is shown via a single new access point off Kings Ash Road. Two house types are proposed, with the second being a larger unit. They are both 3 bed modules. Both types are shown finished with contrasting coloured render to the ground and upper levels, with interlocking concrete tiles. The properties are shown set off the boundaries allowing for landscaping space and gardens.

Summary of consultation responses

Drainage Observations awaited.

Highway Authority Formal observations awaited, but indicated with the pre-application enquiry that a single point of access through the existing (redundant) bus stop, with adequate visibility splays, would be acceptable.

Summary of representations

None received as yet. Advertisement period will expire on 10th January and any representations received will be reported to members.

Relevant planning history

P/2010/0666 Application for an extension to the time limit for implementation of the application allowed on appeal - for the erection of 29 flats with associated car parking, access road/vehicular/pedestrian; footpaths. Approved 22/03/2011.

- P/2006/1571 Erection Of 29 flats with associated car parking, access road/vehicular/pedestrian; footpaths, refused 28th December 2006 on the basis of not including any affordable housing, not having any financial contribution towards sustainable transportation or education under s106, and resulting in the loss of employment. This decision was however overturned on appeal by letter from the Planning Inspectorate dated 29th June 2007
- P/2006/1208 Erection of 29 flats with associated car parking; access road/vehicular/pedestrian; footpaths. Application withdrawn 30th August 2006
- 2005/1227/MPA Erection of 43 flats with associated car parking, refused by notice dated 11/10/2005 on the basis of overdevelopment, being unduly intrusive, having little landscaping, loss of employment opportunities, no provision for affordable housing, no developer contribution under s106, and being contrary to policy.

Key Issues/Material Considerations

Principle and Planning Policy -

This is a brownfield site, which has been underused for many years and in more recent times has remained virtually empty, except for skeleton use by S.W.W. Therefore redevelopment would meet all of the usual criteria and policy requirements of sequential testing, re-use of redundant urban land, provision of housing in the urban area, and good access. In principle the proposal is entirely acceptable. There is an argument about the loss of employment opportunities, which is covered by policy E6 of the Saved Adopted Torbay Local Plan. This is covered below and has already been considered under the extant consent for flats on the site. Design policy considerations are considered to have been met and this will also be covered later in this report.

Economy -

If this application were to be considered in isolation, it would be true to say that the loss of employment opportunities afforded by the existing office block would be sufficient to consider refusing the application on the basis of policy E6. However, regard needs to be had to the previous approvals at the site which are extant and still capable of implementation. The original approval for 29 flats (subsequently renewed) was granted permission on appeal, against the decision of this Authority in June 2007. This is a material consideration.

In his findings, the Inspector concluded that the (then) proposed development "would cause no significant harm to the supply of employment land in the area". Therefore, he found no conflict with either policy ES or E6 of the Saved Adopted Torbay Local Plan. On this basis he saw no need for a financial contribution

towards local employment initiatives to mitigate the loss of jobs on the site, despite the fact that the applicant was prepared to offer £75,000 in this regard. Demand for office space does change over time, but Officers are not aware of a much greater demand for such space now than was the case in 2007. It is therefore felt to be appropriate to give full weight to the Inspector's findings and neither refuse the application on the basis of employment impact (policy E6) nor seek to approve it with the imposition of a financial contribution towards employment initiatives in the vicinity.

Layout and design -

The proposal now before the Local Planning Authority is a distinct improvement on that which is extant and capable of implementation. Firstly, the Torbay housing market is well supplied with small flatted developments (the extant permission). As such these would not be likely to sell well and would not meet local demand. This current proposal is for family sized 3-bed dwelling houses, which are much more in tune with local needs and the character of this area. This makes the current proposal a positive betterment to that which could be implemented.

The proposal has a lower density of development, offering better opportunities for landscaping and space which improves the appearance of the proposed scheme. This enables the scheme to present a more traditional appearance of frontage development, typical of this part of Kings Ash Road. The proposal through its reduction in units therefore fits in much better with the existing built environment. It is, however, considered that the site is still being used efficiently with a density of some 40 dwellings per hectare. This density would sit comfortably within the prevailing context, whilst making effective use of the site.

To make best use of the site the design shows two parallel blocks of housing, some semi-attached some detached. In this way the pattern of proposed development fits in with the established urban grain, with frontage development on to the Kings Ash Road and access to dwellings behind. It also allows the dwellings to be pulled off the boundaries to increase the spacing between themselves and the established neighbouring dwellings.

The frontage dwellings (house type 1) are shown finished with brickwork at ground floor level, render to first floor level and concrete interlocking roof tiles. The properties at the rear are similar only with contrasting coloured render at ground floor level in lieu of the brickwork. This is all very similar to the properties in the 'Great Parks' estate (opposite side of Kings Ash Road) and the new housing in Foxhole (behind). This allows the development to blend in with the locally established vernacular.

However, the appearance of the dwellings is somewhat bland and the opportunities available for lifting design quality in this prominent location have not been taken. The overly ordered frontage layout combined with the arrangement

for the rear paved spaces is also considered lacking in quality. Negotiations are in hand to alter the layout and appearance, the results of which will be reported to Members at their meeting.

Highways and parking -

The site currently has two points of access/egress onto Kings Ash Road, and this is to service mainly commercial vehicles. It therefore follows that one single residential point of access would be an improvement. By placing this point in the middle of the site, the developer would be able to ensure that the required visibility splay in either direction is obtained and retained. An access here would mean the loss of a bus lay-by, but the Council's sustainable transportation group have clarified at pre-application stage that the lay-by is no longer used by buses and is not required for its original purpose. The proposal is therefore deemed to be acceptable on highways grounds, although the formal views of the Highway's Authority are still awaited and will be reported to the meeting.

Internally the site operates by means of shared surfacing which gives movement through the site a more human scale and less vehicular dominated feel. The exact surfacing and its relationship with the required landscaping has still to be clarified. However, Officers are confident that a suitable agreement can be reached and therefore suggest that this should be dealt with by means of a suitably worded condition.

Parking is provided to standard on the basis of one covered garage space and a surface space in front for each dwelling.

Access and parking is therefore in full accordance with the standard criteria given in policies T25 and T26 of the Saved Adopted Torbay Local Plan.

Landscaping -

A landscaping scheme has not been submitted as part of the submission, but there is clearly room to achieve an acceptable solution in this regard. The drawings indicate trees in the front gardens to all of the properties, and this would help soften the visual appearance of the dwellings within the street scene. Attention will also need to be given to the hard landscaping, including the access road, manoeuvring areas and retaining walls, in order to maximise the opportunity to create an attractive living environment. This is perfectly achievable, and can be dealt with further negotiation coupled with an appropriately worded condition.

Planning Obligation/CIL -

At 14 units, the development is under the threshold for the provision of affordable housing. This is acceptable in order to avoid an over-development of the site and ensure a satisfactory living environment. The density of approximately 40 dwellings per hectare is not considered to result in under development given the site's constraints, context and surrounding densities.

It is the Council's policy to seek appropriate financial contributions from developers under s106 of the Town and Country Planning Act 1990 and the legislative requirements of Part 11 of The Community Infrastructure Levy Regulations 2010, towards community infrastructure stemming directly from development and in terms of the resultant pressures on local social, physical and environmental infrastructure. The Council has decided in line with Central Government legislation and advice from the (former) Government Office for the South West 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. This is made quite clear in policies CFS, CF6 and CF7 of the Saved Adopted Torbay Local Plan. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March 2011. More recently, at Full Council on 6th December 2012, Members agreed to seek contributions towards the South Devon Link Road (SDLR), where it is lawful to do so. On this basis, contributions will be due for the following items - the South Devon Link Road, municipal waste and recycling, sustainable transportation, Education, lifelong learning, and green space/recreation.

I have calculated the amount that would be due based upon the figure for floorspace given on the plans submitted (75 and 83 sq. m.) and on this basis the proposal falls within category 3.

Category 3 (75 - 94 Sq. M.)

South Devon Link Road	£ 635
Municipal waste and recycling	£ 50
Sustainable transportation	£2350
Education	£ 830
Lifelong learning	£ 300
Green space and recreation	£2050
TOTAL	£6215 (x14 dwellings = £87,010)

Conclusions

The proposal is considered to be more appropriate to the needs of the Torbay Housing market than that which could be implemented. In respect of needs, density, access and impact on neighbouring properties, this current proposal vastly improves upon the earlier approvals. Some improvement is being sought to the design and appearance of the units and the applicant will need to enter into a Planning Obligation. Other than this the proposal is acceptable, and can therefore be recommended for approval subject to resolving these points.

Relevant Policies

Torbay Local Plan 1995-2011 -

- E6 Retention of employment land
- HS Housing Strategy
- H2 New housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- H11 Open space requirements
- CF6 Community infrastructure contributions
- CF7 Educational contributions
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- T18 Major road network
- T25 Car parking in new development
- T26 Access from development onto the highway

Condition(s)/Reason(s)

01. The new access shown into the site on the approved plans shall not be used until the two existing accesses have been permanently closed to the Local Planning Authorities satisfaction.

Reason: In the interests of highway safety, and the visual amenity of the area.

02. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping for the site, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: In the interests of the amenities of the area, and to accord with policies BE1 and BE2 of the Saved Adopted Torbay Local Plan.

03. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development) whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area, and to accord with policies BE1 and BE2 of the Torbay Local plan (1995 – 2011), adopted April 2004.

04. The development hereby approved shall not be commenced until details of the colour type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority.

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies BES, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

05. The development hereby approved shall not be used or occupied until all of the garages and car parking areas and access thereto shown on the approved plans have been provided and made available for use, or to a stage previously agreed in writing with the Local Planning Authority. The car parking areas and access thereto shall be kept permanently available for parking purposes to serve the development at all times thereafter.

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

06. This permission shall be effective only so long as it is not exercised in addition to or in combination with the planning permission Local Planning Authority reference P/2010/0666 approved on 22 March 2011.

Reason: To prevent over-development of the site in accordance with policies H2, H9 and H10 of the Saved Adopted Torbay Local Plan.

07. The development hereby approved shall not be commenced until details of all proposed boundary walls and fences have been submitted to and approved by the Local Planning Authority. The dwellings shall not be occupied until these have been provided in accordance with the approved details.

Reason: To enable the Local Planning Authority to assess this element of the proposal, and ensure that the scheme is completed such that there will not be any adverse affect on any neighbouring property in accordance with policies H9 and BE1 of the Saved Adopted Torbay Local Plan.

08. The garages hereby approved shall not be used for any form of business purpose.

Reason: To protect the residential amenities of the neighbourhood and ensure that sufficient off-street parking space is retained for the development in accordance with policies H15 and T25 of the Saved Adopted Torbay Local Plan.

09. The windows indicated on the plans as lighting all bathrooms and separate W.C. facilities shall be obscure glazed to a level equal to Pilkington level 5 (or equivalent) and retained as such at all times thereafter.

Reason: In the interests of privacy and to ensure accordance with policy H15 of the Saved Adopted Torbay Local Plan.

Relevant Policies

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Report to Development Management Committee on Recent Planning Appeal Decisions

December 2012

Since the last appeal report in August there have been 19 appeal decisions made. All of these were dealt with by the Written Representation method. Of the appeal decisions reported here, 16 were dismissed and 3 were allowed, this results in a percentage dismissed of some 84%.

There now follows a brief summary of the appeals dismissed, followed by the details of those appeals allowed. If Members require any greater detail on any specific appeal case, then please contact the case officer.

Appeals Dismissed (16)

Site:- 21 Greenlands Avenue
Case Officer:- Alexis Moran
LPA ref:- P/2012/0326
Ward:- Clifton with Maidenway
Proposals:- Convert loft space with a box dormer to create a further 2 bedrooms and en suite
Council's decision:- Delegated Refusal
Issues:- Visual impact and impact on neighbouring amenity

Site:- 9 Thorne Park Road
Case Officer:- Alexis Moran
LPA ref:- P/2012/0481
Ward:- Cockington With Chelston
Proposals:- Addition of stainless steel and glass balcony
Council's decision:- Delegated approval, subject to conditions in relation to obscure glazed panels to the balcony
Issues:- The effect on the living conditions at nearby residential properties if the glazed panels of the balcony were not fitted with obscured glazing in accordance with condition No 2.

Site:- 86 Nut Bush Lane
Case Officer:- Alexis Moran
LPA ref:- P/2012/0662
Ward:- Cockington With Chelston
Proposals:- Alterations and extension to form ancillary family accommodation at ground and first floor levels
Council's decision:- Delegated refusal
Issues:- The principal issues are the effect of the proposed development on the character and appearance of the host building and the area, and its effect on the living conditions of the occupiers of 84 Nut Bush Lane.

Site:- **38 Petitor Road**
Case Officer:- Adam Luscombe
LPA ref:- P/2012/0284
Ward:- St Marychurch
Proposals:- Formation of dwelling and garage
Council's decision:- Delegated refusal
Issues:- The main issues raised by the appeal are the impact of the development on the Petitor Road street scene and its effect on the local infrastructure, particularly in respect of waste management, sustainable transport, lifelong learning, greenspace and recreation.

Site:- **62 Lutyens Drive**
Case Officer:- Mr Alexis Moran
LPA ref:- P/2012/0676
Ward:- Blatchcombe
Proposals:- First floor extension over garage and revised external works
Council's decision:- Delegated refusal
Issues:- This is the effect of the proposed development on the character and appearance of the area.

The application in the case of the above **appeal for an award of costs** was also refused by the Inspectorate.

Site:- **21 James Avenue**
Case Officer:- Alexis Moran
LPA ref:- P/2012/0362
Ward:- Blatchcombe
Proposals:- Extension and alterations
Council's decision:- Delegated refusal
Issues:- The effect of the proposed development on the character and appearance of the area.

Site:- **Squirrels, 95 Goodrington Road**
Case Officer:- Alison Read
LPA ref:- P/2012/0256
Ward:- Churston With Galmpton
Proposals:- Alterations and extension to existing loft conversion to form granny annexe
Council's decision:- Delegated refusal
Issues:- The main issues are the effect of the proposal on: - (i) the character and appearance of the area, and (ii) the living conditions at 51 Kingsway Avenue with particular regard to visual impact and privacy.

Site:- Sunbury Court, Sunbury Hill
Case Officer:- Alix Cathcart
LPA ref:- P/2012/0152
Ward:- Tormohun
Proposals:- Change of use and conversion of ancillary storage building to a dwelling
Council's decision:- Delegated refusal
Issues:- The principal issues are
a) the effect of the proposed development on the character and appearance of the host building and the Upton Conservation Area
b) its effect on the space available to Sunbury Court for turning and manoeuvring, and on highway safety
c) the living conditions of the prospective occupiers of the proposed dwelling.

Site:- 3 The Roundings
Case Officer:- Alison Read
LPA ref:- P/2012/0376
Ward:- Churston With Galmpton
Proposals:- Proposed ground and first floor rear extension.
Council's decision:- Delegated refusal
Issues:- The main issue is the effect of the proposal on the character and appearance of the Galmpton Conservation Area.

Site:- Springhill, Solsbro Road
Case Officer:- Mr Alexis Moran
LPA ref:- P/2012/0138
Ward:- Cockington With Chelston
Proposals:- Non material amendment - use blue/black fibre cement roof slates to application P/2011/0314/PA
Council's decision:- Delegated refusal
Issues:- The principal issue is the effect of the proposed development on the character and appearance of the Chelston Conservation Area.

Site:- 44 Ilsham Road
Case Officer:- Adam Luscombe
LPA ref:- P/2011/0808
Ward:- Wellswood
Proposals:- Formation of new detached dwelling house and integral garage with vehicular and pedestrian access on land at rear
Council's decision:- Delegated refusal
Issues:- The impact of the proposal on the character and appearance of the area, particularly through loss of trees and on the amenities of the occupiers of No 44 by way of overlooking.

Site:- **Apartments 11 And 12, Marina Court, Warren Road**
Case Officer:- Alix Cathcart
LPA ref:- P/2011/1078
Ward:- Tormohun
Proposals:- Installation of balconies to apartments 11 and 12
Council's decision:- Delegated refusal
Issues:- The principal issue is the effect of the proposed development on the character and appearance of the host building and the Belgravia Conservation Area.

Site:- **77 East Pafford Avenue**
Case Officer:- Adam Luscombe
LPA ref:- P/2012/0026
Ward:- Watcombe
Proposals:- Dwelling at side (In Outline)
Council's decision:- Delegated refusal
Issues:- The main issues are the effect of the proposal on: - (i) the character and appearance of the area, and (ii) the living conditions at 75 East Pafford Avenue, with particular regard to visual impact, light and privacy.

Site:- **Garage Plot, Higher Woodfield Road**
Case Officer:- Adam Luscombe
LPA ref:- P/2011/1230
Ward:- Wellswood
Proposals:- Change of use from garage to residential two bedroom house. (new build garage consented in planning permissions P/2011/0705/PA & P/2011/1036/NMA)
Council's decision:- Delegated refusal
Issues:- The five main issues are: the effect upon the character and appearance of the area, which forms part of Lincombes Conservation Area (CA), including the effect upon the setting of the adjacent terrace at 1-9 Lisburne Crescent; whether the proposal would provide adequate living conditions for occupiers of the proposed dwelling, having particular regard to outlook, light and external amenity space; the impact upon the living conditions of neighbouring residents, having particular regard to overlooking/privacy; the implications for car parking along Higher Woodfield Road and; whether it would be necessary for the proposal to include financial contributions towards the cost of infrastructure, having particular regard to waste management, transport, lifelong learning and greenspace/recreation.

Site:- **5 Rowcroft Road**
Case Officer:- Alexis Moran
LPA ref:- P/2011/1267
Ward:- Preston
Proposals:- Ground and first floor extension to provide additional letting unit
Council's decision:- Delegated refusal
Issues:- The two main issues are: the effect upon the character of the area and; whether the proposal would provide adequate living conditions for occupiers of the proposed flat and the existing flats at 5 Rowcroft Road, having particular regard to external amenity space and outlook.

Site:- **Land Adjacent Oversands, Livermead Hill**
Case Officer:- John Burton
LPA ref:- P/2011/0843
Ward:- Cockington With Chelston
Proposals:- Use of existing approved flat roof as roof terrace with glazed balustrading and glazed roof access box to dwelling approved on application P/2010/1326
Council's decision:- Delegated refusal
Issues:- Impact on the character and appearance of the area

Appeals Allowed

Site:- **Rear Of 1 Elmbank Road**
Case Officer:- Alexis Moran
LPA ref:- P/2011/1377
Ward:- Roundham With Hyde
Proposals:- Change of use of existing rear two storey building to form a single one bedroom dwelling with pedestrian access
Council's decision:- Delegated refusal
Issues:- The principal issues are:
a) whether the proposed development would constitute over-development of the appeal site and harm the living conditions of the occupiers of adjoining dwellings;
b) whether it would offer acceptable living conditions for the prospective occupiers.

Site:- **Old Toll House, Torbay Road**
Case Officer:- Ruth Robinson
LPA ref:- P/2011/0802
Ward:- Tormohun
Proposals:- Extend time limit - Formation of roof terrace, modifications to lift. P/2008/0981/LB.
Council's decision:- Committee Refusal in line with officer recommendation
Issues:- Whether the proposal would preserve the Grade II listed building known as The Old Toll House or its features of special architectural or historic interest and preserve or enhance the character or appearance of the Belgravia Conservation Area (CA) which includes the Grade II registered Historic Park and Garden at Rock Walk Gardens and, if

not, whether any harm would be outweighed by any benefits of the scheme.

Site:- **Old Toll House, Torbay Road**

Case Officer:- Ruth Robinson

LPA ref:- P/2011/0799

Ward:- Tormohun

Proposals:- Extend time limit - Formation of roof terrace, modifications to lift - P/2008/0980.

Council's decision:- Committee Refusal in line with officer recommendation

Issues:- Whether the proposal would preserve the Grade II listed building known as The Old Toll House or its features of special architectural or historic interest and preserve or enhance the character or appearance of the Belgravia Conservation Area (CA) which includes the Grade II registered Historic Park and Garden at Rock Walk Gardens and, if not, whether any harm would be outweighed by any benefits of the scheme.