



Friday, 30 August 2013

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 9 September 2013

commencing at **2.00 pm**

The meeting will be held in the Rosetor Room,
Riviera International Conference Centre, Torquay

Members of the Committee

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Kingscote

Councillor Pentney

Councillor Stockman

Councillor Brooksbank

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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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 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 August 2013.
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/2013/0438/MPA - Land At Churston Golf Course / Churston Golf Club, North East Of Churston Court Farm** (Pages 6 - 20)
Change of use of 7.7 HA of Agricultural land for use as a Golf Course; Change of use of 1.3 HA of land from equine use to use for cattle grazing; and all associated infrastructure, engineering works and landscaping (Revised Scheme) THIS IS A DEPARTURE FROM THE LOCAL PLAN
6. **P/2013/0714/PA - Bishops Place, Paignton** (Pages 21 - 23)
Change of use from education to offices (B1).

7. **P/2013/0745/OA - Former Day Nursery, Barum Close, Paignton** (Pages 24 - 27)
Construction of a pair of semi detached dwellings and associated parking.
8. **P/2013/0740/PA - Land Adjacent, 45 Stanley Gardens, Paignton** (Pages 28 - 31)
Detached house and associated access/on site parking.
9. **P/2013/0630/HA - 42 Broadsands Road, Paignton** (Pages 32 - 34)
Two storey front extension, new integral garage under, new pitched roof with dormer to rear.
10. **P/2013/0775/S106 - The Corbyn Apartments, Torbay Road, Torquay** (Pages 35 - 38)
Modification of Section 106 ref: P/1991/0370 to allow four penthouse apartments to be occupied on a permanent residential basis and the remaining 13 apartments to be used for both holiday letting and short term letting.
11. **P/2013/0658/PA - 21 Quinta Close, Torquay** (Pages 39 - 43)
Erection of dwelling for letting purposes.
12. **P/2013/0808/OA - Land Adjacent To 79 Glebeland Way, Torquay** (Pages 44 - 46)
Construction of a pair of split level semi-detached houses with associated parking.
13. **P/2013/0720/PA - Artful Dodger, 304 Teignmouth Road, Torquay** (Pages 47 - 49)
Change of use from Public House (Use Class A4 - Drinking Establishment) to Pre-School (Use Class D1 - Non-Residential Institution).
14. **P/2012/0566/PA - Rock House, Rockhouse Lane, Torquay** (Pages 50 - 54)
Construction of new dwelling in kitchen garden to South of Rock House and conversion and extension of existing stable block into dwelling house to North of Rock House including provision of independent access from road to the East.
15. **P/2013/0677/MPA - Land At Edginswell Business Park, Off Orchard Way, Torquay** (Pages 55 - 77)
Formation of an (A1) Tesco store (inc. customer cafe) and approximately 977 sq.m. B1 office development on plots Vesta and Edesia at Edginswell Business Park associated infrastructure, retaining structures, access, parking and landscaping and outline planning application for the development of a B1 office building of 2090 sq.m on the Sarritor plot , A3/A5 unit with associated access and parking - This is a departure from the Local Plan.

16. 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.

17. Site visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 4 September 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

12 August 2013

-: Present :-

Councillor Morey (Vice-Chairman)

Councillors Addis, Baldrey, Barnby, Kingscote, Pentney, Stockman, Hytche and Tyerman

(Also in attendance: Councillors Butt, Darling, Doggett, Thomas (D) and Thomas (J))

26. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillors Hytche and Tyerman instead of Councillors Brooksbank and McPhail. Councillor Morey, as Vice-Chairman, therefore chaired the meeting.

27. Minutes

The Minutes of the meeting of the Development Management Committee held on 8 July 2013 were confirmed as a correct record and signed by the Chairman.

28. P/2012/1074 Land off Alfriston Road, Paignton

The proposal is for residential development to form 84 dwellings, creation of new vehicular access and pedestrian accesses and associated works. The Committee considered revisions to the layout and Section 106 Legal Agreement, from those previously presented to and discussed by Committee.

Prior to the meeting, written representations were circulated to members. At the meeting John Bowden addressed the Committee against the application and Simon Collier addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Thomas (J) addressed the Committee.

Resolved:

Approved subject to:

- i) the drafting of conditions being delegated to the Executive Head of Spatial Planning; and
- ii) a satisfactory Section 106 Legal Agreement being completed and signed within three months of this Committee, or the application will be reconsidered in full by Committee.

29. P/2013/0436/MPA J Sainsbury Plc, Yalberton Road, Paignton

The Committee considered an application for the extension to store building comprising an extension infill to existing loading bay and erection of glazed lobby to store entrance; alterations to car park layout including installation of recycling area and erection of eight new trolley bay shelters; installation of canopy in connection with groceries on-line operation; and placement of firework container in service yard.

Prior to the meeting, written representations were circulated to members.

Resolved:

Approved with the conditions set out in the submitted report.

Members requested officers to write to J Sainsbury PLC to remind them to wait for planning applications to be considered by the Council before implementation.

30. P/2013/0530/PA Windmill Cottage, Windmill Lane, Paignton

The Committee considered an application for the demolition of Windmill Cottage and formation of two, three bedroom, dwellings with garages.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Jennifer Clark addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Butt addressed the Committee.

Resolved:

That the application be deferred for further negotiations in relation to the size and design of the proposed dwellings.

31. P/2013/0572/MOA Land Adjacent To The A385 Totnes Road, Collaton St Mary

The Committee considered an outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This was advertised as a departure from the Local Plan.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Ann Waite addressed the Committee against the application and Ed Heynes addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Thomas (D) addressed the Committee.

Resolved:

Refused for the reasons set out in the submitted report.

32. P/2013/0626/PA Roselands County Primary School, Lynmouth Avenue, Paignton

The Committee considered an application for the extension of existing hardstanding school playground and erection of 2.4m boundary fence.

Prior to the meeting, Members of the Development Management Committee undertook a site visit.

Resolved:

Approved with the conditions set out in the submitted report.

33. P/2013/0656/PA 45 Winsu Avenue, Paignton

The Committee considered an application for the demolition of existing house and construction of two new houses.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Ian Hancock addressed the Committee against the application and Colin Ritchie addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Doggett addressed the Committee.

Resolved:

Refused on the ground of:

- i) the proposed dwellings by reason of their size, siting and design, would represent an inappropriate form of development. The cramped nature of the built form, resulting from the overdevelopment of the site, would be out of character with the prevailing context in the street scene and would therefore have an adverse impact on the character and appearance of the area. Furthermore, the dwellings would have an unacceptable impact on the living conditions of the neighbouring properties. The proposed dwellings would therefore be contrary to policies H9, H10, LS, BES and BE1 of the saved adopted Torbay Local Plan and paragraphs 56, 57, 60 and 61 of the NPPF.
- ii) In the absence of a legal agreement under S106 of the Town and Country Planning Act 1990, the applicant has failed to satisfy the sustainability aims of policies CF6 and CF7 and the Council's SPD Planning Contributions and Affordable Housing: Priorities and Delivery (Update 3). Therefore the development fails to secure the delivery of the physical, social and

community infrastructure necessary to make the development acceptable in planning terms. As such the proposal is contrary to policies CF6 and CF7 of the Local Plan and paragraph 206 of the NPPF.

34. P/2013/0183/MPA Torre C Of E Primary School, Barton Road, Torquay

The Committee considered an application for the construction of four classrooms with vehicular access for grounds maintenance; formation of hard surface play area.

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

Resolved:

Approved subject to the conditions set out in the submitted report and:

- i) soakaway and surface water drainage design proposals being agreed with Drainage Structures or agreement with Drainage and Structures to a pre-commencement condition requiring these details, within the 13 week determination date, otherwise the application will be refused on the 13 week determination date;
- ii) the payment of the cost of the required highways measures or a Section 106 Legal Agreement securing payment of these costs by the 13 week determination date, otherwise the application be refused on the 13 week determination date;
- iii) the detailed wording of conditions, including the travel plan, be delegated to the Executive Head of Spatial Planning.

35. P/2013/0244/HA Tallet, Barrington Road, Torquay

The Committee considered an application for the formation of an extension at first floor level (revised scheme).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Trudi Cross addressed the Committee against the application and Simon Blake addressed the Committee in support of the application.

Resolved:

Approved.

36. P/2013/0529/HA 147 Fore Street, Barton, Torquay

The Committee considered an application for a two storey extension to the side and rebuild of detached garage.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Stuart Vass addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Darling addressed the Committee.

Resolved:

Approved with the conditions set out in the submitted report.

37. P/2013/0550/MPA Devon & Cornwall Constabulary, Southfield Road, Paignton

This application was withdrawn.

38. P/2013/0613/PA Jesmond Dene, 85 Abbey Road, Torquay

The Committee considered an application for the change of use of a guest house (Class C1) to HMO (sui generis) with internal works.

Prior to the meeting, written representations were circulated to members.

Resolved:

Approved, subject to the upfront payment of £6,175 and administration fee of £308.75 and the conditions set out in the submitted report.

39. P/2013/0614/LB Jesmond Dene, 85 Abbey Road, Torquay

The Committee considered an application for the change of use of a guest house (Class C1) to HMO (sui generis) with internal works.

Prior to the meeting, written representations were circulated to members.

Resolved:

Approved.

Chairman/woman

Agenda Item 5

Application Number

P/2013/0438

Site Address

Land At Churston Golf Course / Churston Golf Club, North East Of Churston Court Farm

Case Officer

Mrs Helen Addison

Ward

Description

Change of use of 7.7 HA of Agricultural land for use as a Golf Course; Change of use of 1.3 HA of land from equine use to use for cattle grazing; and all associated infrastructure, engineering works and landscaping (Revised Scheme). THIS IS A DEPARTURE FROM THE LOCAL PLAN.

Executive Summary/Key Outcomes

This application is a resubmission for the part of application reference P/2013/0019 that related to alterations to the golf course. The previously proposed clubhouse is not subject of this application. The application is for the provision of additional golf course holes on land within the AONB to replace those that would be lost in the event of the implementation of the consent to construct dwellings on the existing 1st and 18th holes.

The proposal would address the impact on the AONB through the provision of on-site landscape mitigation works and a long term management plan for the entire golf course area (some 31 hectares).

The site is within the sustenance zone for Greater Horseshoe Bats and approximately 2.5 km from the South Hams Special Area of Conservation (SAC). The proposal would involve the loss of agricultural land used for foraging by Greater Horseshoe Bats. To offset this impact a similar sized area of land for cattle grazed pasture would be secured in mitigation. Detailed measures for the long term management of the mitigation land and golf course site in the interests of wildlife, including Greater Horseshoe Bats and Cirl Buntings, are proposed that would be secured for 125 years. With the implementation of the submitted measures the development would not result in an adverse effect on wildlife or the integrity of the SAC.

Recommendation

Approval; subject to two legal agreements and conditions (see end of report).

Statutory Determination Period

The thirteen week target date was 27th July. The application has exceeded the target date due to the content of the S106 agreements needing to be agreed prior to the application being considered by the Development Management Committee.

Site Details

The application site relates to 15.4 hectares of land to the north east of Churston Court Farm. The site area is divided into:

- 7.7 hectares of land in existing agricultural use
- 1.3 hectares of land in equine use
- 6.4 hectares of land currently used as part of the existing golf course.

The land is currently used as golf course land, agricultural land and in equine use. The ground levels on the site slope in both north easterly and south easterly directions, forming a valley. There are a number of hedges and trees on the site. There is currently pedestrian access onto the golf club land from the existing greenkeeper's yard off Links Close.

Surrounding the site to the north and east is golf club land. Land to the south is in agricultural use. To the east is Churston village. Churston Court Farm, which contains a number of Grade II Listed Buildings, adjoins part of the western boundary.

In the Torbay Local Plan 1995-2011 the site is designated as being within the Countryside Zone, Coastal Preservation Area, AONB, the south western part of the site is within the Churston Conservation Area and there is a wildlife designation. A small area of the site adjacent to Green Lane contains a sycamore and Lime tree covered by TPO 1970.01.

Detailed Proposals

This application is for the changes to the golf course and provision of off site mitigation land that were included as part of application reference P/2013/0019 and P/2011/0838. A few revisions were made to the detail of changes to the land to form the golf course under application reference P/2013/0019. This proposal is identical to that considered under application reference P/2013/0019 although some additional work has been carried out on the Landscape and Ecological Management Plan (LEMP), Construction Environmental Management Plan (CEMP) and the Offsite Mitigation Measures.

The application proposes to change 7.7 hectares of agricultural land to land used as part of the golf course. It will be used to form three tees, fairways and greens to provide 3 new holes. The creation of the new golf holes will include the creation of two wetland areas and other limited ground re-profiling works to form the new fairways. The site also includes 6.4 hectares of land that is currently in use as existing golf course, which will be used as a golf practice and coaching area.

Included in the application is 1.3 hectares of land currently used as equine grazing. This would be changed to use for cattle grazing. In addition an off-site area of 4.35 ha/10.76 acres would be managed for replacement grazed pasture. This land is currently used for silage/hay and aftermath grazing.

A Landscape and Ecological Management Plan for the entire golf course is included with the detailed measures to be agreed as a plan for the management of the whole of the golf club land. This is because the extension of the golf club into farmland would result in the loss of areas of existing cattle grazed pasture, which is important for foraging Greater Horseshoe Bats and these measures would provide ecological mitigation to offset the impact of the proposed development.

The proposal also includes new planting of native trees, shrubs and hedge banks. New bat roosts are proposed to be installed in the existing sheep croft and lime kilns. Further bat and bird boxes are also included.

Summary Of Consultation Responses

Brixham Town Council- recommends refusal for the following reasons:

- 1) Breach of European law for greater horseshoe bat because of lack of effective mitigation
- 2) Departure from local plan
- 3) Threatens wildlife
- 4) AONB and CPA note land proposed for mitigation already foraged by greater horseshoe bats.

South Devon AONB Unit- does not object to the proposals on landscape grounds. Asks the Council to reconsider carefully whether the proposals relating to car parking are suitably addressed in this application to avoid a proliferation of uncontrolled parking adjacent to the extended golf course area.

Natural England- Based upon the updated version of the 'Offsite Mitigation Measures- Churston Barony Land', July 2013 Rev A', I can confirm that this information addresses the concerns I previously raised.

CPRE- opposes the application on the following planning policy grounds;

- Proposed change of usage for the AONB/CPA
- Transport and highways
- Ecological and environmental considerations

Torbay Local Access Forum- objects on the following grounds;

- Potential changes to access
- Possible interference with existing rights of way
- Potential impacts upon the enjoyment of the access to this area.

Arboricultural Officer - the scheme is suitable on arboricultural merit.

Highways - raise no objection to the proposal.

RSPB - no response received.

Summary Of Representations

A large number of objections to the application have been received and one letter of support. The letters of objection raise the following points:

- Proposal is unnecessary and shows total disregard for an AONB
- Proposal is in defiance of the local plan
- There is no access to the 1.3ha of cattle grazing land
- Change of character to the area from agricultural to golf course
- Land is part of Devon bio-diversity site
- We believe the site contains invertebrate species of national importance
- The site is a Cirl bunting, slow worm and dormouse habitat
- Loss of historical well stocked bio-diverse hedgerows which support many species.
- Damage to future food security
- Loss of important grazing land in an AONB and Coastal Preservation Area
- There is no proven need to require additional golf holes
- Additional traffic on land used by walkers
- Habitat for the greater horseshoe bat will be threatened
- New bat roosts have been identified at seven quarries bordering the golf course land which will be threatened by loss of grazing on existing agricultural land.
- The bat mitigation land is already used by bats.
- Inadequate parking for enlarged driving range
- Blocking of emergency vehicles due to excessive golf club parking
- Parking in the area will become more problematic due to loss of parking spaces alongside Churston Barns.

The letter in support raises the following issues:

- The proposal will help the Golf Club improve its golf course in order to attract more members and visitors.
- The club provides the following benefits:
 - Looks after the local environment
 - Employs local people
 - Helps educate local youngsters
 - Keeps many older locals fit and active
 - Employs local companies
 - Brings a considerable number of visitors into the area
 - Makes a huge contribution to the local economy.

Relevant Planning History

The following applications are considered directly relevant to this application (historic decisions having limited weight due to the passage of time and change to legislation and policy in the intervening period):

P/2013/0019 Site 1 - Development of golf club house, coach facility, buggy store, car park, vehicular access, works to Bridge Road and Bascombe Road
Site 2 - Change of Use and regrading of 7.7 hectares of agricultural land for use as golf course; change of use of 1.3 hectares of land from equine use to use for cattle grazing and all associated infrastructure, engineering works and landscaping.(Revised Scheme) THIS IS A DEPARTURE FROM THE LOCAL PLAN. Refused 28.3.13 for the following reasons;

01. The proposed development would generate additional traffic using the local highway network which is inadequate to cater for that traffic by reason of narrow width of roads. lack of footpaths and junctions lacking visibility and capacity. Notwithstanding the improvements proposed the proposal would therefore lead to conditions prejudicial to highway safety, particularly for vulnerable road users and be contrary to Policy T26 in the Torbay Local Plan 1995-2011 which seeks to ensure that the effects of the development on the highway and road safety are acceptable, and Para. 32 of the NPPF in that the residual cumulative impacts of the development are severe.

The submitted transport assessment is inadequate and cannot be relied upon to properly inform the Council of projected traffic movement in that it fails 1) to assess peak development traffic and the likely number of additional vehicles using minor roads in the vicinity, 2) the effects of seasonality on traffic flows and 3) the impact this would have on the operation of junctions and the local road network as a whole.

02. The proposed club house and car park by reason of its large size, scale and siting in an important open area within the Countryside Zone affording views to the sea would result in a visually dominant, incongruous and overbearing form of development detrimental to the appearance and character of the locality. The development would therefore fail to relate sensitively to its setting and would unacceptably alter the open rural character of the site that is located within an open area in the Countryside Zone, as designated in the Torbay Local Plan 1995-2011. As such the proposal would be contrary to the provisions of Policies L4, BES and BE1 of the Torbay Local Plan 1995-2011 which seek to, i) ensure that new development would not be detrimental to the special character and setting of the Countryside Zone and ii) retain the integrity of local character and distinctiveness. The scheme would also be contrary to Para.64 of the NPPF which advises permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
03. 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" in that the application fails to deliver the necessary physical, social and community infrastructure to make the development acceptable in planning terms. In the absence of a signed legal agreement under Section 106 of the Town and Country Act 1990 (as amended) the following matters, required in order to make the development sustainable in planning terms, have not been secured:

- a) contributions to highway improvements to secure provision of (i) the footpath between Dartmouth Road and Bridge Road and (ii) a widening of Bridge Road to two lanes
- b) Agreement by all landowners that the proposed footpath can be provided on their land,
- c) delivery of the off-site mitigation area to mitigate the loss of foraging habitat for the Greater Horseshoe Bat
- d) delivery of the Landscape and Ecological Management Plan (LEMP) for the entire 32 hectares of the golf course
- e) provision of a detailed and robust ecological monitoring programme.

For these reasons the proposed development fails respectively to i) provide sustainable mitigation for the additional vehicular movements that would be generated as a result of the development, ii) to secure provision of mitigation measures to ensure that there is no likely significant impact on the Greater Horseshoe Bat foraging and commuting habitats that are protected by the South Hams Special Area of Conservation and iii) to conserve the landscape and scenic beauty of the AONB.

The Local Planning Authority considers that it would be inappropriate to secure the required obligation by any method other than a legal agreement and the proposal is therefore contrary to Policies T26, NC1, NC5, L1 and CF6 of the Torbay Local Plan 1995-2011 and paragraph 203 of the NPPF which supports the use of planning obligations to make otherwise unacceptable development acceptable.

- P/2012/1194 Site 1- Development of golf club house, coach facility, buggy store, car park, vehicular access, works to Bridge Road and Bascombe Road
 Site 2 - Change of Use and regrading of 7.7 hectares of agricultural land for use as golf course; change of use of 1.3 hectares of land from equine use to use for cattle grazing and all associated infrastructure, engineering works and landscaping. Site 1-Land At Churston Golf Course / Churston Golf Club, north East Of Bascombe Road Opposite The Northern End Of Bridge Road, Churston, Brixham
 Site 2 - Land At Churston Golf Course/Churston Golf Club, North East Of Churston Court Farm. Withdrawn
- P/2011/0829 Demolition of clubhouse, outbuildings and care park and development comprising up to 90 dwellings, 42 bed extra care scheme (use C3 extra care); informal open space; landscaped areas, new vehicular/pedestrian access and sustainable drainage measures and all necessary infrastructure, engineering works and landscaping (in outline), Site Of Existing Club House, First And Eighteenth Holes, Churston Golf Club, Dartmouth Road, Brixham approved 20.12.12.
- 2011/0838 Change of use of agricultural land for use as a golf course; development of a clubhouse, car park and golf trolley store ; a new vehicular access and road from green lane ; a new practice area with associated small building and practice putting green; and works to form three replacement tees, fairways and greens; all associated infrastructure engineering works and landscaping THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT. THIS IS A DEPARTURE FROM THE LOCAL PLAN, Land At Churston Golf Club, Dartmouth Road, Brixham. Refused 26.7.12
- P/1999/0592/PA Continuation of use for golfers practice area etc without complying with

condition 1 of consent 97.0501 (i.e. use to cease 1.7.99) approved 12.7.99
Condition 1 states "No more than five cars associates (sic) with the practice area should be parked adjacent to the green keeper's yard at any one time".

Key Issues/Material Considerations

The key considerations are the impact of the proposed development on the AONB, and the impact on ecology and wildlife.

This is the same area of land that was considered for changes to the golf course under application reference P/2013/0019. In comparison with this application the site for the proposed club house is not included in the application. It is also broadly the same site that was considered under application reference P/2011/0838 for alterations to form additional golf holes.

Principle and Planning Policy -

This part of the application site is designated as AONB, Countryside Zone, and Coastal Preservation Area. The south western part of the site is within the Churston Conservation Area and part of the site is designated as a County Wildlife site.

Development within the AONB -

It is important to recognise that designation of an AONB does not preclude new development. Development can be carried out in the AONB providing it complies with current policies and legislation.

The NPPF provides an important part of the policy framework under which this application should be determined. Para. 116 is relevant to development within the AONB and states "planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest". It advises that "consideration of such applications should include an assessment of:

- The need for the development, ... the impact of permitting it, or refusing it upon the local economy
- The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way, and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."

Policy L1 in the Torbay Local Plan 1995-2011 applies to development in the AONB. This states that within the AONB "development will only be permitted where it would support their conservation or enhancement or would foster their social and economic well being, provided that such development is compatible with their conservation".

It can be seen that there is a difference between the approaches in the NPPF and the Torbay Local Plan 1995-2011. In the NPPF there is a presumption that development will be refused unless there is an exceptional circumstance and the proposal is in the public interest. In Policy L1 there is a presumption in favour of development and development doesn't have to support both 'conservation or enhancement' and 'social and economic well being', it is only required for development to meet the conservation and enhancement objectives.

However, neither para 116 of NPPF nor L1 of the Local Plan, make unacceptable development in the AONB any more acceptable. Members will need to ensure the proposed development is, as a first consideration, acceptable in its own right, before considering whether exceptional circumstances and public interest over-rule the NPPF presumption against granting permission.

In this instance, the NPPF (Para 116) takes precedence over the local plan, as the NPPF has been published much more recently than the Local Plan and the designation as AONB is a national designation. As such the NPPF carries significant weight in the determination of this application.

However, it remains important to assess the proposed development against both Para. 116 in the NPPF and Policy L1 in the Torbay Local Plan 1995-2011, in order to reach an understanding of the impact of the proposal on the AONB.

Considering Paragraph 116 of the NPPF, whether this proposed development can be considered as an “exceptional circumstance” is a complex debate, not least because there is no definition in the NPPF of an “exceptional circumstance”.

One consideration is that the application is linked to the approved application, reference 2011/0829, for residential development on the site of the existing club house and 1st and 18th. This would deliver 132 new dwellings which would contribute to the Council’s five year supply of housing. Without consent for the golf course alterations in the AONB the approved residential development (P/2011/0829) of the 1st and 18th would not be deliverable.

Para. 116 also requires development in the AONB to be in the public interest. The principle of providing improved facilities and improving the viability for a private members club such as Churston Golf Course could be argued not to be in the public interest, as there would be no overall gain for the local community given the golf facilities would not be accessible to everyone.

However, as part of the development, the applicant has agreed that the entire golf course (some 31 hectares) will be subject of the Landscape and Ecological Management Plan (LEMP), which will specify in considerable detail how all the golf course land will be managed to benefit both landscape and ecology. This will include measures such as managing the rough grassland, hedges, trees, screening and lighting. The golf club are prepared to sign a S106 agreement that will contain details of how all these features will be managed in perpetuity. This would be a significant benefit to the AONB as it will ensure the golf course land is managed in the most effective way and gives a long term assurance that this area of land in the AONB will be appropriately managed. In comparison with the ‘do nothing’ scenario this would be a significant benefit to the quality of the AONB and is, as such, in the public interest.

Paragraph 116 has three bullet points (stated above) which sets out the issues that should be considered in the determination of applications for major developments within the AONB. It is worth noting that the NPPF does not give any indication of the scale or acceptability of impacts, costs and effects. These impacts, and the weight attached to them, are a matter for the decision making process. The assessment issues identified in the NPPF are highlighted in bold text below.

a) the need for the development including the impact of permitting it or refusing it on the local economy.

The applicant has previously advised that the development of a new club house (which is not part of the considerations with this application) and alterations to improve the golf course, will help to ensure the Club’s long term future through the retention of existing club members and the attraction of visiting players. Under application references P/2013/0019 and P/2011/0838 the applicant indicated that the proposal would also enable the Club to accommodate the Lee Westwood Golf Academy. It is not clear whether the Lee Westward Academy would still be linked to this proposal.

This planning application is related to the potential for the delivery of the residential development on the existing site of the 1st and 18th Tees and Clubhouse. The re-provisions of holes in the AONB is one of the factors that would be necessary to deliver the residential development of 132 dwellings, whilst retaining a viable 18 hole golf course.

In terms of the continued operation of the golf club the applicant has not proven that without this development the golf club would cease to operate. Therefore the need to reconfigure the fairways carries limited weight in determining the proposal.

b) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way

If permission were refused for this application the opportunity for enhancement and long term maintenance of the AONB in accordance with the requirements of Natural England could be lost.

In addition, the delivery of the 90 new homes and 42 extra care unit on the existing club house site is dependent on the relocation of the Club House (not subject of this application) and the alterations to the golf course.

c) any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.

The impact on the environment is a significant issue in the determination of this application, as the site is within the AONB and within the sustenance zone of the Berry Head Special Area of Conservation (SAC).

The impact on landscape is a balanced assessment. The proposed development would result in the loss of 11 hectares of agricultural land, however this would be offset by the change of use of 1.15 ha/2.84 acres currently used for equine purposes, a horse ménage and wooden stable block with a wooden stable block to cattle grazing, and the provision of the offsite mitigation area which would result in a total area of 5.5 ha/13.6 acres. Furthermore, the applicant has offered to provide and implement in perpetuity (125 years in this case) a Landscape and Ecological Management Plan (LEMP) to ensure that habitats under their ownership and the rare species they support are secure in the long term. The LEMP will not only cover the proposed development site, but the golf course as a whole, which covers an area of approximately 31 hectares.

In terms of recreational opportunities the golf club is a private club for members and green fee paying visitors only. It does have a social role to play in that it provides sports and meeting facilities for the local community. There is also an opportunity for young people to play golf and the club has links to schools in the area. The contribution the club makes to the community is recognised by Sport England, who supported the two previous applications relating to this site. It is recognised by Sport England that through this policy the clubs links with the community have been extended through engaging with a number of different user organisations.

Although membership is required to use the facility the golf club does provide a recreational benefit for users which would make a positive contribution to health and social well being of users.

Conclusion on AONB considerations

On the basis of the relevant considerations set out above it is considered that the proposed development would be acceptable in relation to the impact on the AONB. The proposal is to extend a use that is compatible with the AONB designation. The development is not considered to cause harm to the landscape character. Furthermore, the beneficial management of the whole golf course provides an overall public, landscape and ecological benefit that would not be likely to otherwise be realised without this development. Support to the proposal has also been given by both Natural England and the AONB officer.

The South Devon AONB Officer, who does not object to the scheme, provides a helpful summary of

the AONB considerations in his consultation response. His conclusions are in line with officers conclusions and he states that:

'The current proposals relating to the playing area (fairways, greens, practice areas) will introduce a more intensively managed regime to that part of the AONB, and remove some land from established agricultural use. However, although this is in some ways a more "artificial" type of land use, the existing golf course as a whole makes a valuable contribution to the appearance and character of the locality because of its significant areas of trees, scrub, hedges and rough grassland. Despite the fact that the course is a managed area of land, these features are in many places informal in appearance and lend the area an open, almost "parkland" type of character. The proposal to extend the area of golf course is therefore not incompatible with that character.'

Impact on Ecology and Wildlife-

The designation of the South Hams Special Area of Conservation (SAC) is relevant to the determination of this application. The Council has employed an Ecological consultant to screen the development under the Habitats Regulations 2012 for likely significant effect on a European site. Under application reference P/2013/0019 it was concluded that the development would not result in an adverse residual effect on the integrity of the SAC (subject to a s106 and appropriate conditions). This Assessment is currently being updated. It is anticipated that the same conclusion will be reached.

The applicant has submitted a detailed Ecological Assessment Report. This confirms that extensive ecological survey and assessment of the site has been undertaken. It is concluded that whilst the Golf Club extension site itself does not support any bat roosts, the existing hedgerow network and grazed pasture provides an important resource for foraging and commuting bats, including Greater Horseshoe bats, a qualifying interest feature of the South Hams Special Area of Conservation (SAC) located over 2.5km away.

Part of the site is designated as a County Wildlife Site for its previously recorded breeding population of Cirl Buntings and baseline surveys confirmed the presence of five Cirl Bunting territories on/overlapping the site, which represents 0.5% of the current UK population.

Other ecological features recorded across the site included the presence of Badgers, a Barn Owl roost site and other notable bird species typical of farmland/urban fringe habitats during both the breeding and wintering periods and a 'good' population of Slow Worms.

The extension of the golf course into farmland would result in the loss of areas of cattle/sheep grazed pasture important for foraging Horseshoe bats. Loss of permanently grazed cattle pasture is of particular significance for Greater Horseshoe bats as they are heavily dependent on the invertebrate prey that cattle dung generates. The fields in which grazing will be lost amount to an area of 4.36ha/10.76 acres. In order that the proposed development would not have a detrimental effect on ecology the following measures have been included as part of the proposal;

- An area to the west of the site of 4.35 ha/10.76 will provide replacement grazed pasture. The Churston Barony has agreed to manage this area in perpetuity for the benefit of Greater Horseshoe bats. The fields are currently used for silage/hay and aftermath grazing.
- An additional area of offsite cattle grazed pasture will be provided and managed by the golf club which is located in between Churston Court Farm and the western boundary of the proposed development footprint. This area amounts to 1.15 ha/2.84 acres and replaces what is currently improved grassland, a horse ménage and wooden stable block. The golf club will be responsible for the management of the area under a Landscape and Ecological Management Plan (LEMP). (The total area of off-site replacement grazed pasture adds up to 5.5 ha/13.6 acres)

- The applicant has offered to provide and implement in perpetuity a Landscape and Ecological Management Plan (LEMP) to ensure that habitats under their ownership and the rare species they support are secure in the long term. The LEMP will not only cover the proposed development site, but the golf course as a whole, which covers an area of approximately 31 hectares.
- Two new bat roosts would be provided; one in the Sheep's Croft (a derelict stone shed on the northern boundary of the site) and the other in the Lime Kiln in the quarry to the east of the site
- 1 Barn Owl box would be installed on the site boundary.
- Two Devon hedgebanks will be created in new locations (through translocation and reinstatement) to enhance connectivity.
- Pockets of native shrub planting will be created around the golf course
- Large expanses of less intensively managed grassland will be created (areas of 'rough') and will be managed for wildlife in accordance with a LEMP.
- Linear bands of native tree/shrub planting are proposed and will maintain habitat connectivity (including bat flight paths) within and across the site
- 2 wetland features will be created with features to benefit wildlife

Natural England has commented on the draft CEMP, LEMP and the Offsite Mitigation Measures proposals and they are now satisfied with the content.

The RSPB has not commented on this application. In respect of application reference P/2013/0019 they raised concerns about;

- Adequacy of the proposed on-site mitigation and off-site compensation
- Receipt of Higher level and Entry Level Stewardship agreement payments supporting current management on some farmland proposed for golf course extension and off site compensation land.
- Lack of detail for the LEMP for the golf course
- Absence of a LEMP for the off-site compensation.

Local residents have stated that they believe that the site contains invertebrate species of national importance, specifically identifying 4 butterfly species, but have not provided the evidence or basis for this statement or any survey information. The submitted Ecological Assessment report reviewed records of habitat and species from a variety of sources including the Devon Biodiversity Records Centre, the Devon Biodiversity Action Plan (BAP) and the Torbay BAP. It appears that none of these sources identified the presence of important invertebrates on the site.

Landscape -

The Torbay Landscape Character Assessment, undertaken by consultants on behalf of the Council, states the site lies within the area of local character 1R Broadsands and North Churston and is described as follows:

"The Broadsands area is visible across Torbay, whilst the southern part near Churston is largely hidden by woodland which is an important landscape characteristic of this part of the coastal fringe; it also screens much of the manicured golf course landscape".

In relation to the capacity to accommodate change and mitigation potential, the Landscape Character Assessment states “the landscape structure of this area has become fragmented as a result of the development of the golf course and adjoining housing. It may be possible to accommodate limited small scale change in the south western part of this area which is screened from the coast by a combination of housing, landform and woodland”.

In relation to a management strategy (Restore), the Landscape Character Assessment says “measures should focus on hedgerow enhancement including the establishment of replacement hedgerow trees, and planting of small copses”.

In the Brixham Urban Fringe Landscape Study the site lies within landscape compartment 24: Churston Golf Course. This is a finer grained and more detailed landscape assessment of the AONB around Brixham. It suggests proposed alternative management, by:

- Encouraging the golf course to manage rough areas for wildlife
- Seeking to bring farmland under HLS and restore the orchard
- Ensure that native tree and shrub species are used within the course.

Both these landscape character assessments acknowledge the already altered nature of the present landscape and identify that the site is screened from views across the bay by woodland (Marriage Wood), thereby drawing the conclusion that the landscape could accommodate some change. In management terms it is recommended that the landscape be restored.

In visual terms the application site is well screened from the surrounding area by existing woodland and higher ground levels around the site. The proposed changes to the existing golf course to provide a practice/coaching area will have limited effect on the appearance and character of the area. The change of use of the agricultural land to golf holes will have greater impact particularly as there would be some re-grading of the land in this area. However, this part of the site is only visible from the immediate surrounding area and the overall impact would be limited by the valley location. The more prominent landform changes are principally located within the valley bottom.

The AONB Officer notes that while some areas of agricultural land and hedgerow will be removed, this will be balanced by the on-site landscape mitigation works combined with the proposed wider Landscape and Ecological Management Plan which will provide a valuable opportunity to strengthen and maintain the landscape character, visual appearance and habitat management of the whole course in the long term. He concludes that he has no objection to the scheme, subject to conditions.

In relation to detailed concerns, the AONB Officer asks the Council to reconsider whether the proposals relating to car parking are suitably addressed to avoid a proliferation of uncontrolled parking adjacent to the extended golf course area.

In response to this point the existing practice area is in the same location as the proposed practice/coaching area. The issue to consider is how much additional demand would be created for parking as a result of the proposed alterations to the golf course. It is likely that this would be limited and the additional demand for parking would not be significant given that the reconfiguration will replace practice facilities that already exist in this location.

Policy L3 in the Torbay Local Plan 1995-2011 relates to Coastal Preservation Areas and is a restrictive policy that limits development within these areas to that which cannot be accommodated elsewhere. This Policy is not fully NPPF compliant as it contains greater controls over development than Policy L1 relating to AONBs. The NPPF indicates at para. 113 that the AONB has a higher level of protection, therefore Policy L3 would have limited weight in the determination of this application.

Loss of agricultural land

The 11 hectares of agricultural land that would be incorporated into the golf course is classified as grade 3a and 2 agricultural land. Grades 1, 2 and 3a are the best and most versatile land. This loss of agricultural land has to be balanced against bringing the 2.84 acre area currently used for horse grazing into use for cattle grazing, which will be controlled by the LEMP. In addition, the improvements in farming methods to benefit Greater Horseshoe Bats, which is to be carried out on the mitigation area of 10.76 acres is also a consideration.

It would be difficult to substantiate an argument that the loss of agricultural land would have a significant detrimental effect on agriculture in the area.

It should be noted that Policy L7 in the Torbay Local Plan 1995-2011 relating to agricultural land is not a saved Policy and is not applicable to the determination of this application.

Accessibility -

There would be no buildings on the site and access would predominantly be by foot. The issue of whether there will be a demand for additional parking as a result of the practice area being located on the site has been raised by the AONB Officer. However, it is considered unlikely that significant additional demand will be created over that which currently exists, given the replacement nature of the practice facilities.

S106/CIL -

Two S106 agreements would be required for the proposal. One would relate to Churston Barony Land and the other to land within the control of the Golf Club. The purpose of the agreements would be to:

- Secure the management provisions of the off site mitigation land
- Secure provision of the LEMP
- Secure provision of the CEMP

The s106 agreements have been drafted and the draft versions (including the LEMP and CEMP) have been publicised on the Council's website.

Conclusions

In conclusion, this application is a resubmission of the proposal for works to the golf course that was considered under application reference P/2013/0019 with the part of the application for the club house removed. Since consideration of application P/2013/0019, further work has been carried out on the LEMP, CEMP and the Offsite Mitigation Measures. Natural England has been consulted on these revised documents and has not raised any concerns. These documents have also been agreed with the Council's Ecological Consultant.

In determining the application consideration needs to be given to the impact of the proposals on the character of the AONB and on ecology and wildlife. The proposed alterations to the golf course would barely be visible from public vantage points. On the site there would be a loss of vegetation however to balance this, extensive areas of new planting are proposed. The proposal includes a detailed long term management plan for the entire golf course area which would provide an overall benefit to the AONB. This would provide an opportunity to strengthen and maintain the landscape character and visual appearance of an area of the AONB that would be much larger than the application site.

The submitted draft LEMP and CEMP contain detailed measures to positively manage the golf club land and the offsite mitigation land in the interests of wildlife and particularly in respect of the Greater Horseshoe Bat and Cirl Buntings. The proposal would involve the loss of 10.77 acres of agricultural land however this would be mitigated by the provision of an area of 10.76 acres of land that would be managed as replacement grazed pasture. In addition an area of 2.84 acres of land currently used by

horses would be managed as grazed pasture. The long term management of the golf club site and the mitigation land would be of benefit for wildlife.

The measures contained in the LEMP, CEMP and Off site Mitigation Measures have been agreed by Natural England. Their implementation would mean that it is unlikely that the proposed development would result in any adverse affect on ecology.

For these reasons the application is recommended for approval.

Condition(s)/Reason(s)

01. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP) that shall include the ecological measures identified in the Outline Construction Environmental Plan dated April 2013. The carrying out of the development hereby approved shall accord with the CEMP unless otherwise agreed in writing by the Local Planning Authority. Reason; To ensure that the development avoids, minimises and mitigates against environmental effects, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.
02. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a Landscape and Ecological Management Plan (LEMP) that shall include the following as identified in the Outline Landscape and Ecological Plan dated April 2013;
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) On-going monitoring for the duration of the plan and remedial measures.
 - i) The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The carrying out of the development hereby approved shall accord with the LEMP. Reason; To ensure that the delivery of the mitigation/enhancements as set out in the Ecological Impact Assessment, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

03. No development shall take place until the ecological mitigation measures contained in the Offsite Mitigation Measures - Churston Barony Land dated Rev A dated July 2013 have been implemented in accordance with a timetable previously agreed in writing by the Local Planning Authority and thereafter the off site mitigation land shall be managed in accordance with the approved measures.

Reason; To ensure that replacement grazed pasture is provided for Greater Horseshoe Bats as a result of the loss of existing pasture that would occur as part of the approved development, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

04. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the type and location of new bat roosts in the Sheeps

Croft building and the Lime Kiln, and of the new bat and bird boxes referred to in the CEMP. The provision of the bat roosts shall be completed before the development hereby approved is commenced and the provision of the bat and bird boxes shall be provided in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To encourage and support use of the area by bats and birds, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

05. No development shall take place until a timetable and detailed specification of alterations to the golf course has been submitted to and approved by the Local Planning Authority. Details to be agreed include new planting (trees, hedge, shrub and grass) creation of hedgebanks, embankment shadow, the Ha Ha feature and artificial hedge features. Development shall be carried out in accordance with the approved details.

Reason: to ensure that the site and particularly hedgerows on the site will be maintained and managed in a fashion that secures commuting habitat in perpetuity for Greater Horseshoe Bats, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

06. No development shall take place including demolition, ground works, vegetation clearance until a monitoring programme for Greater Horseshoe Bats and Cirl Buntings has been submitted to and approved in writing by the Local Planning Authority. The monitoring programme shall accord with Appendix 4 of the Habitat Regulations Assessment and shall include details set out in Section 4.0 of the Outline Landscape and Ecological Management Plan April 2013 and Section 3.0 of the Offsite Mitigation Measures - Churston Barony Land Rev A dated July 2013. The reports detailing the results of the monitoring surveys shall be submitted to the Local Planning Authority during the first active season after the development and then in years 2,3,5,10 and thereafter every further 5 years after the completion of the development. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To ensure that that the proposed development delivers the fully functioning biodiversity outcomes set out, in the both the planning application and the approved planning consent. Monitoring is also required to identify: (i) if any proposed conservation actions have been ineffective leading to failure (in full or part) to achieve stated conservation objectives and (ii) contingencies and/or remedial measure required to ensure that biodiversity outcomes comply with the originally approved scheme. In accordance with Policy NC5 of the Torbay Local Plan 1995-2011.

07. No outdoor lighting shall be installed on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: Bats and some birds species, such as Barn Owls, are sensitive to light pollution. The introduction of artificial light may mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Since disturbance may constitute a criminal offence under the Habitats and Species Regulations (2012) or the Wildlife and Countryside Act (1981 as amended), this condition is intended to avoid/prevent such disturbance from occurring. In accordance with Policy NC5 in the Torbay Local Plan 1995-2011.

08. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of the planning consent, the approved ecological measures secured through Conditions 1,2,3 and 5 shall be reviewed and where necessary amended and updated. The review shall be informed by further ecological surveys commissioned to establish (i) if there have been any changes in the presence and/or abundance of Greater Horseshoe Bats and (ii) to identify any likely new ecological impacts that may arise from any changes. Where the survey results identify changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that that the proposed development delivers the fully functioning biodiversity outcomes set out in the both the planning application and the approved planning consent. In accordance with Policy NC5 in the Torbay Local Plan 1995-2011.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
NCS - Nature conservation strategy
NC5 - Protected species
L1 - Areas of Outstanding Natural Beauty
L3 - Coastal Protection Areas
L4 - Countryside Zones
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
L10 - Major development and landscaping
BE2 - Landscaping and design
EPS - Environmental protection strategy
LS - Landscape strategy
NC1 - Protected sites - internationally import
NC3 - Protected sites - locally important site
NCS - Nature conservation strategy
CFS - Sustainable communities strategy
T1 - Development accessibility
T2 - Transport hierarchy
T3 - Cycling
RS - Recreation and leisure strategy
R2 - Outdoor recreation developments

Agenda Item 6

Application Number

P/2013/0714

Site Address

Bishops Place
Paignton
Devon
TQ3 3DZ

Case Officer

Mrs Helen Addison

Ward

Roundham With Hyde

Description

Change of use from education to offices (B1)

Executive Summary/Key Outcomes

The application is to change the use of this Grade II listed building from education to office use. The applicant has not submitted any details of alterations to the building. The proposed use would be an appropriate use of the building in this town centre location as it would provide employment opportunities that would be within easy access of the workforce by walking and public transport.

Recommendation

The application be forwarded to the National Planning Casework Unit (NPCU) with a recommendation that it be granted planning consent.

Statutory Determination Period

The eight week target date for determination of the application is 25th September. It is expected the decision will be issued within this timescale, subject to the response from the NPCU.

Site Details

The application site relates to the Grade II Listed two storey building situated at the junction of Bishop's Place and Gerston Place. It is currently used for storage purposes and was previously used for Adult and Community Learning. The building dates from 1908 and was originally part of Paignton Art School. There are notable sgraffito panels on the elevation to Gerston Place which are a rare example of English external sgraffito work. The main entrance to the building is from Bishops Place. A modern extension has been added at the rear. Two parking spaces have been marked out on the pavement outside the Bishops Place entrance to the building.

The site is located within the town centre and there are a variety of uses in the area. To the north and west is the modern Coverdale Court providing residential accommodation. To the south and east are the rear of retail premises. In the Torbay Local Plan 1995-2011 the site is shown as being within the Old Paignton Conservation Area and the town centre.

Detailed Proposals

The application is submitted for a change of use from education to offices. The applicant has advised that it intends to use the building for 'grow on' space for early stage businesses that are ready to leave the Lymington Road and Vantage Point Centres as they are needing more space to expand their companies and take on more jobs.

No details of any alterations to the building have been submitted. As the building is listed all alterations including internal changes will require listed building consent.

Summary Of Consultation Responses

English Heritage- consultation response awaited.

Highways- no objection given the central site and proximity to local car parks. With mitigation for jobs to be created no SPD contribution would be required.

Summary Of Representations

One letter of objection that raises the following points:

- Proposal will create problems with parking and increase the number of cars in the area.
- The surrounding area is predominantly residential and residents in Coverdale Court are aged 50-98 they have enough trouble coping with existing traffic in the area without having to deal with more cars.
- The 2 parking spaces are not wide enough for the purpose and present disability discrimination as they forced a wheelchair user to go on the main road to pass this area.

Relevant Planning History

2007/1037	Install 4 retractable parking bollards, approved 12.9.07
2004/0331	Installation of lift approved 21.4.04
2001/0793	Erection of glazed covered courtyard and alterations to existing outbuildings to form wc and store approved 22.8.01
2001/0228	Alterations formation of covered link extension and associated building work approved 9.5.01
2001/0227	Alterations formation of covered link extension and associated building work approved 8.5.01

Key Issues/Material Considerations

The main issue is the principle of the proposed change of use in this location and highways.

Principle and Planning Policy -

The property is relatively small in relation to current standards for educational use and it is accepted that due to its size and location would not be the optimal site for the delivery of education. This has tended to be focused on larger sites that are capable of expansion. Therefore there would be no objection to the loss of an education use in this location.

The proposal to use the property for business purposes would accord with the objectives of Policy E2 which seeks to encourage office development within the town centre and Policy E5 which supports new employment use on unidentified sites, particularly sustainable locations close to town centres.

This location would be appropriate for business use as it would be easily accessible by public transport. This would improve job opportunities for people who can access the site by walking and public transport. The proposed use would contribute to the viability and vitality of the town centre by encouraging more people to work within the town centre. This would be a positive benefit to the local economy.

Economy -

The applicant has indicated that the proposal would be likely to create between 16 and 37 new jobs.

Highways -

Concern has been raised by a local resident about the volume of traffic that would be generated by the proposal. As the site is located within the town centre there would be considerable activity and movement within the area already. In comparison with the previous use of the building for educational use it is not considered that the proposed use would generate a significant increase in traffic. As there is virtually no parking provided on the site people working at the premises will need to access the building on foot.

The two parking spaces outside the building do reduce the size of the pavement available for

pedestrians and the highway officer has been asked to comment on whether this is acceptable.

S106/CIL -

No contributions will be required due to the mitigation that can be applied to the number of new jobs that will be created.

Conclusions

In conclusion, the proposed change of use would be appropriate in this location within the town centre and would contribute to the vitality and viability of the town centre. It would make effective use of this listed building.

Relevant Policies

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Agenda Item 7

Application Number

P/2013/0745

Site Address

Former Day Nursery
Barum Close
Paignton
Devon
TQ3 2AX

Case Officer

Mrs Helen Addison

Ward

Roundham With Hyde

Description

Construction of a pair of semi detached dwellings and associated parking.

Executive Summary/Key Outcomes

The application is for demolition of a vacant children's nursery on the site and for outline consent for the construction of a pair of semi detached dwellings. Access is to be considered as part of this application but the remaining matters of appearance, landscaping, layout and scale are to be addressed at reserved matters stage.

The principle of residential use on the site would be consistent with the character of the surrounding area and would offer an opportunity to enhance the appearance of the area.

Recommendation

Subject to completion of a S106 legal agreement, outline planning permission be granted with conditions as set out at the end of the report.

Statutory Determination Period

The eight week target date for the application is 20th September. The timescale for signing the S106 agreement which in this case will be on the sale of the site (as it is in the Council's ownership) will determine when the decision is issued. It is likely this will exceed the target date.

Site Details

The application site is situated on the east side of Barum Close. On the site is a single storey building that was most recently used as a children's nursery and is currently vacant. The existing building is sited close to the road. There is a garden that is part hard surfaced at the rear of the site.

Barum Close is a cul de sac and has no footpaths. To the south and west of the site is modern residential development. To the north is the car park of the Polsham Arms pub which is a Listed Building. In the Torbay Local Plan 1995-2011 there is no specific allocation relating to the site. The boundary of the Polsham Conservation Area runs along the north and east boundaries of the site.

Detailed Proposals

The application is submitted in outline with all matters reserved apart from access for construction of a pair of semi detached dwellings with parking. A plan has been submitted that shows there would be an access from Barum Close to each dwelling. A feasibility plan has been submitted to demonstrate how two dwellings could be accommodated on the site. The feasibility plan shows the proposed dwellings set further back into the site than the existing nursery building with integral parking and a deep plan.

Summary Of Consultation Responses

Two letters of representation has been received that raise the following points:

- Roof should be tiled and not metal
- New building should be single storey or first floor should have velux roof lights
- Access to Barum Close is narrow with limited visibility, special arrangements would be necessary to deal with construction traffic.
- First floor windows to site will result in overlooking.
- Lack of privacy
- Council should adopt Barum Close
- No indication of duration of development.

Summary Of Representations

Highways-consultation response awaited

Community Safety-consultation response awaited

Relevant Planning History

1993/1036 Formation of additional classroom with toilet facilities and staff/office area approved 19.10.93

1990/0107 extension to form staff room approved 9.3.90

Key Issues/Material Considerations

The main issues are the principle of residential development in this location, highways and the impact of the proposal on the amenity of adjoining occupiers.

Principle and Planning Policy -

The existing single storey building on the site has no design merit and is not worthy of retention. Its demolition would provide an opportunity to improve the appearance of the site and the surrounding area.

The principle of constructing two dwellings on the site would be consistent with Policies H2, H9 and H10 in the Torbay Local Plan 1995-2011. The predominant existing use of Barum Close is residential and it would be appropriate for this site to be used for new dwellings as it would be less intrusive in terms of noise, disturbance and activity than a commercial use. The resulting form of development would have a narrow plot width but this would be fairly consistent with the form of development in Barum Close and would not harm the character of the area.

It is considered that constructing two dwellings on the site would make effective use of the land and this would be an appropriate size of development on the site.

As the application is in outline with appearance, layout and scale to be considered at reserved matters stage the form of development does not need to be addressed at this time. It is the principle of the development on the site that should be considered under this application.

However, it is relevant to comment on the feasibility plan and this could be included in an informative to the decision. The feasibility plan shows a modern design of dwelling with a deep plan. In order for the proposed development to relate positively to the character of the area a simpler more traditional approach to the dwellings would be appropriate. The bulk of the roof could be changed by changing the form of the roof.

Accessibility -

The application site is in a sustainable location reasonably close to the town centre and also within walking distance to Paignton Green and the seafront. The feasibility plan demonstrates that two off street car parking spaces could be provided per dwelling. It would also be necessary for secure cycle parking to be provided on site. It is noted that the traffic generation from two dwellings would be less than from the nursery.

Amenity -

A nearby resident has raised concerns about materials and inter-visibility. Materials are a matter to be considered at reserved matters stage and not at this outline stage. The relationship to properties on the opposite of Barum Close would be a front elevation to front elevation and it would be reasonable to expect windows facing each other. The distance between properties would be in excess of 18 metres. The front elevation of the building opposite the site is already visible from Barum Close for this reason the proposal would not have a detrimental effect on residential amenity if a two storey dwelling were constructed on the site.

S106/CIL -

Section 106 contributions in accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery would be required for the following;

Waste Management
Education
Lifelong Learning
Greenspace and Recreation
South Devon Link Road

There would be no requirement for a Sustainable Transport contribution as the level of trip generation for two residential properties would be less than the previous use as a day nursery.

The actual level of contributions would be dependent on the size of the dwellings.

Conclusions

In conclusion, the proposal is for outline consent for demolition of the existing single storey nursery building on the site and the construction of a pair of semi detached dwellings. The only detail to be agreed at this stage is the access to the site. All other matters are to be considered at reserved matters stage.

The existing nursery building is not worthy of retention. The proposed use for residential use would be consistent with the predominant residential character of the area and would constitute an appropriate form of development in this location, which would enhance the character of the area.

Condition(s)/Reason(s)

01. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To ensure a satisfactory form of development and in accordance with policies BES, BE1, H2 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. The development shall not be occupied until the vehicle and cycle parking areas shown on the details to be submitted and approved under Condition 1 above have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995-2011

03. No development shall take place until there has been submitted to and approved in writing by

the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

Reason: In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

04. 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 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 H10, L10, BE1 and BE3 of the Torbay Local plan (1995 - 2011).

05. No development shall take place until a schedule of the materials to be used in the construction of the external surfaces of the buildings hereby permitted has been submitted to and approved in writing by the Local Planning Authority. Samples of the materials shall be made available on site for inspection as necessary. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

06. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i. The parking of vehicles of site operatives and visitors
 - ii. Loading and unloading of plant and materials
 - iii. Storage of plant and materials used in constructing the development
 - iv. Measures to control the emission of dust and dirt during construction
 - v. A scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In the interests of the amenity of the area, in accordance with Policy H9 of the Torbay Local Plan 1995-2011.

07. The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum.

Reason: To ensure a satisfactory completion of development in accordance with policies BE1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

Relevant Policies

-

Agenda Item 8

Application Number

P/2013/0740

Site Address

Land Adjacent
45 Stanley Gardens
Paignton
TQ3 3NX

Case Officer

Mr Alexis Moran

Ward

Description

Detached house and associated access/on site parking.

Executive Summary/Key Outcomes

The application is for the construction of a detached dwelling. Access is to be considered as part of this application but the remaining matters of appearance, landscaping, layout and scale are to be addressed at reserved matters stage.

The principle of residential use on the site would be consistent with the character of the surrounding area and is deemed to comply with polices BES, BE1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

Recommendation

Conditional Approval; subject to the signing of a s106 legal agreement or receipt of upfront payment in respect of relevant commuted sums.

Statutory Determination Period

8 weeks, expires 20.09.2013. The timescale for signing the S106 agreement which in this case will be on the sale of the site (as it is in the Council's ownership) will determine when the decision is issued. It is likely this will exceed the target date.

Site Details

The site is a plot next to 45 Stanley Gardens and is located at the end of a cul-de-sac.

Detailed Proposals

The application seeks outline planning permission for the addition of a detached two storey residential property with associated parking to the front.

Summary Of Consultation Responses

Drainage - A condition will be required in order to ensure the application meets the requirements of the NPPF

Arboricultural Officer - Awaiting Comments

Highways Officer - Awaiting Comments

Summary Of Representations

Two letters of objection had been received at the time of the writing of this report these relate to:

- Parking
- Access

Relevant Planning History

None

Key Issues/Material Considerations

The principle of a dwelling in this location is considered to comply with policies BES, BE1, H2 and H9 of the saved adopted Torbay Local Plan 1995-2011.

The key issue to consider is the impact that a detached property would have on the character of the area which is predominantly made up of terraced and semi-detached properties with a distinct building line.

Given its siting, at the end of an access lane on a cul-de-sac, it is considered that the proposal would be an acceptable addition which would not be highly visible and would not therefore harm the character of the area. The proposal has an acceptable impact on the privacy and amenity of its neighbour however this will need to be given more consideration when the reserved matters application is received.

The application is in outline with the appearance, layout and scale to be considered at reserved matters stage. Therefore the form of development does not need to be addressed at this time. It is the principle of the development on the site that should be considered under this application.

S106/CIL -

As part of this process the application has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay.

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

Planning Contributions Summary	Contribution	Early Payment
Waste Management (Site Acceptability)	£50.00	£47.50
Sustainable Transport (Sust Dev't)	£2,527.25	£2,400.89
Education (Sustainable Development)	£1,057.25	£1,004.39
Lifelong Learning (Sustainable Dev't)	£227.25	£215.89
Greenspace & Recreation (Sust Dev't)	£2,187.25	£2,077.89
South Devon Link Road	£731.00	£694.45
Total	£6,780.00	£6,441.00
Administration charge (5%)	£339.00	£322.05
Total with Admin Charge	£7,119.00	£6,763.05

Conclusions

The principle of the proposed dwelling in outline is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

01. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before

any development begins and the development shall be carried out as approved.

Reason: To ensure a satisfactory form of development and in accordance with policies BES, BE1, H2 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. The development shall not be occupied until the vehicle and cycle parking areas shown on the details to be submitted and approved under Condition 1 above have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995-2011

03. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

Reason: In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

04. 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 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 H10, L10, BE1 and BE3 of the Torbay Local plan (1995 - 2011).

05. The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum.

Reason: To ensure a satisfactory completion of development in accordance with policies BE1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

06. Details of a sustainable drainage system which meets the requirements of the NPPF shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: In order to protect against flood risk and to comply with advice contained in chapter 10 of the NPPF.

Relevant Policies

BES - Built environment strategy

BE1 - Design of new development

H2 - New housing on unidentified sites

H9 - Layout, and design and community aspects
T25 - Car parking in new development
T26 - Access from development on to the highwa

Agenda Item 9

Application Number

P/2013/0630

Site Address

42 Broadsands Road
Paignton
Devon
TQ4 6HH

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Two storey front extension, new integral garage under, new pitched roof with dormer to rear.

Executive Summary/Key Outcomes

This is a revised application to that previously approved by the Development Management Committee (P/2012/0666) which seeks retrospective permission for alterations to the previously approved plan. The main alterations include an increase in the size of the front and rear dormers and the retention of the existing garage.

Recommendation

Committee Site Visit; Conditional Approval

Site Details

The application site relates to what was a gable fronted bungalow situated on the south side of Broadsands Road. The property is set back from the road, with a floor level higher than road level. There is a semi detached single garage located in front of the property, close to the road, joined to the neighbour's garage.

Detailed Proposals

Although the application has been submitted as a new scheme it is in essence a retrospective revision to the application previously approved by the Development Management Committee (P/2012/0666). The alterations include an increase in width and height of the dormer and gable end on the principle elevation and the addition of a large box dormer to the rear as well as the retention of the existing garage.

Summary Of Consultation Responses

None.

Summary Of Representations

11 letters of objection have been received, the main issues raised include that the scheme is:

- too large
- overbearing
- out of character
- results in unacceptable overlooking
- includes a poor design of the roof
- would set a precedent
- results in the overdevelopment of the plot
- is not in keeping with other properties in the road
- the scheme fails to comply with Policy H15
- the development would be dominant in the area.

Relevant Planning History

P/2012/0666 Ground and first floor dormer extension to include integral double garage and car parking to front of property. Approved by committee 30.07.2012

P/2012/0485 Ground and first floor extension to the front to include integral garage and parking to the front. Withdrawn 30.05.2012

Key Issues/Material Considerations

The main issues with this proposal relate to its visual appearance in the street scene, whether it constitutes an over development of the site, whether it would dominate or have any other adverse effects on the character of the original property or any neighbouring properties and whether it would cause harm to the amenity of neighbouring properties through overlooking, overbearing impact, loss of light or privacy.

It is considered that the increase to the height and width of the gable and dormer to the front of the property are acceptable in terms of their appearance in the street scene and there are similar dormers to the fronts of properties within the area. The dormer to the rear will not be highly visible from the wider street scene and there are also dormers of a similar size to the rear of properties in the area.

In terms of impact on the amenities of the occupiers of the properties either side there is considered to be a sufficient enough gap between the properties and the building is no higher than that previously approved.

The impact on the privacy to properties to the rear is considered to be acceptable, as the windows to the dormer are not significantly larger than those previously approved.

However, it is important that a full site visit is undertaken in order that the committee can understand and consider the changes made to the previous scheme.

S106/CIL -

Not applicable in this case.

Conclusions

The proposed retrospective alterations are 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. Within one month of the date on the decision notices a scheme of landscaping shall be submitted to and approved by the Local Planning Authority which shall include a scheme of landscaping, indicating 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 interest of the amenities of the area and to meet the criteria of Policy BE2 of the Saved Adopted Torbay Local Plan 1995 to 2011.

02. 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 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 meet the criteria of Policy BE2 of the Saved Adopted Torbay Local Plan 1995 to 2011.

03. The existing hedgerow which runs along the eastern boundary to the front of the property shall be permanently maintained at a minimum height of eaves level of the property.

Reason: In the interests of the privacy of the adjoining occupiers and to meet the criteria of Policy H15 of the Saved Adopted Torbay Local Plan 1995 to 2011.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE2 - Landscaping and design
H15 - House extensions

Application Number

P/2013/0775

Site Address

The Corbyn Apartments
Torbay Road
Torquay
Devon
TQ2 6RH

Case Officer

Mrs Helen Addison

Ward

Cockington With Chelston

Description

Modification of Section 106 ref: P/1991/0370 to allow four penthouse apartments to be occupied on a permanent residential basis and the remaining 13 apartments to be used for both holiday letting and short term letting.

Executive Summary/Key Outcomes

The application is to modify the existing S106 agreement relating to the 17 holiday apartments on the site. The proposal is for the four penthouse apartments to be used for permanent residential accommodation and occupancy of the remaining 13 apartments to be revised to a mixed holiday and short term letting use.

This proposal would be consistent with Policy TU6 of the Torbay Local Plan 1995-2011 and the Council's guidance in "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 and would therefore constitute an acceptable proposal in this location.

Recommendation

Subject to revised drafting of the proposed modification to the S106 agreement planning permission be granted. The s106 to be signed and completed within 6 months of the date of this committee.

Statutory Determination Period

The eight week target date for determination of the application was 6th September 2013. The decision on the application will exceed this target.

Site Details

The application site relates to a modern four storey block of apartments that are in holiday use, situated on the west side of Torbay Road opposite the Livermead Cliff Hotel. The property is clearly visible in the street scene. It is finished in brick and render and has a mansard roof. There is a parking court in the front curtilage of the site. On the southern side of the building is the recent South Sands development of residential properties and on the northern side is the Corbyn Head Hotel. The railway line runs along the western boundary of the site.

The surrounding area has a mix of uses which are predominantly residential and holiday. In the Torbay Local Plan 1995-2011 the site is shown as being within a PHAA. In the "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 the site is within an Amber area.

Detailed Proposals

The application is to vary the S106 agreement relating to application reference 91/0370PA, which was for the construction of 17 holiday apartments and associated parking. The S106 agreements limits the occupancy of the 17 apartments as it requires that "the units the subject of the said Planning Application 91.0370 shall be permanently retained for holiday purposes only".

This application is to vary the S106 agreement to allow the four penthouse apartments on the top of the building to be occupied permanently and the remaining 13 apartments to be used for both holiday letting and short term (off season) letting.

The applicant is proposing that the S106 agreement be modified as follows:

- a) unrestricted residential use of the four penthouse apartments
- b) the use of the other 13 apartments shall be:
 - i) from 1 June to 31 August in any year for holiday purposes only
 - ii) from both Easter to 31 May in any year and 1 September to 31 October in an year by persons either for holiday purposes or any other residential purpose providing the stay in any one apartment of non-holiday purposes does not exceed 3 months and no more than 50% of the 13 apartments are occupied for non- holiday purposes as any one time
 - iii) from 1 November one year to Easter in the following year by persons regardless of the purpose of their stay providing the stay in any one apartment does not exceed 3 months
- c) the owners/operators shall maintain an up-to-date register of the names and main home addresses of all persons occupying the 13 remaining apartments for holiday purposes, and shall make this information available at all reasonable times to the Council
- d) the period within which an application to modify/discharge may be made is specified in the proposed modified Section 106 as 12 months.

Summary Of Consultation Responses

N/A

Summary Of Representations

None received.

Relevant Planning History

1991/0370 Erection of 17 Holiday Units and associated parking approved 9.3.92
1991/1008 Alterations To Form Caretakers Accommodation To Proposed Holiday Flats Development Reference Number 91.0370.Pa approved 25.9.91

Key Issues/Material Considerations

The main issues are the principle of changing the use of four apartments to permanent residential use and the proposed changes to the restrictions on the occupation of the remaining 13 apartments.

Principle and Planning Policy -

In the Torbay Local Plan 1995-2011 Policy TU6 is relevant to the loss of holiday accommodation within a PHAA. This states that proposals which are to the detriment of the character and function of the PHAA will not be permitted. A number of criteria where the loss of holiday accommodation will be permitted are identified. This includes where the premises lack an appropriate basic range of facilities or have restricted bedspace capacity, both of which would not be applicable in this case.

The remaining criteria relate to the impact on the holiday character of the area and require the proposed use should be compatible with the surrounding tourism related uses.

The Council has produced further guidance in the document "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010. In this guidance the site is within an Amber Area. The guidance states that for Holiday Apartments within an Amber Area conditions on occupancy are likely to be removed.

In support of the application the applicant has advised that the Corbyn Apartments is a loss making business if the apartments are only occupied for holiday use. He considers that the business could be profitable if the four penthouse apartments were allowed to be occupied permanently and the remaining 13 apartments were used for both holiday letting and short term letting. In recent years limited unauthorised short term lets of the apartments have been carried out, but even with this the business has not been profitable. He suggests that the proposed use of the four penthouse apartments as permanent dwellings would provide a rental income stream with reduced servicing costs (cleaning, laundry, heat, light, water and rates) whilst enhancing the holiday occupancy levels of the remaining 13 apartments.

A key issue to be considered in this application is whether the loss of these four good quality purpose built holiday apartments from holiday use would affect the holiday character of the area. The applicant has submitted a comprehensive case that the use of all 17 apartments for holiday purposes in this location is not viable. The proposal to use four of the seventeen apartments for permanent residential accommodation would result in the majority of apartments on the site remaining in holiday use. The remaining 13 apartments would continue to contribute to the holiday character of the area.

The Council's "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010, states at Para. 3.15 (relating to holiday apartments within an amber area) that "it is recognised that a more flexible approach to their occupancy may allow for a better overall contribution to the economy of Torbay. On this basis, the Council will consider favourably applications to relax occupancy restrictions on holiday apartments to allow residential use".

It is considered that this part of the proposal would not have an adverse affect on the holiday character of the area and as such would be consistent with Policy TU6 in the Torbay Local Plan 1995-2011. There would be only 4 apartments in permanent residential use, they would enable the business to continue to operate and it is not intended to sell them as separate units of accommodation.

The remaining 13 holiday apartments in the building are currently restricted by the S106 agreement in respect of application reference 1991/0370 to holiday purposes only. As part of the proposal it is proposed to revise this as outlined above. This would effectively mean that the apartments need only be used for holiday purposes between 1st June and 31st August.

For the remaining time occupancy would be restricted to a maximum period of three months, although in the period Easter to 31st May and 1 September to 31st October no more than 50% of the 13 apartments could be occupied for non holiday purposes at any one time.

It should be noted that Policy TU8 in the Torbay Local Plan 1995-2011 allows winter letting of holiday accommodation in the period end of October to Easter with a maximum occupancy period of six months. In comparison with this policy the proposal would permit up to 6 apartments to be let for non holiday purposes in the period Easter to 31st May and 1 September to 31st October. This part of the proposal is considered to be acceptable and would not result in an adverse affect on the holiday character of the area as this would not be within the peak holiday letting period.

Given the need to protect the holiday character of the area, there are a number of points that need to be addressed in the drafting of the S106 agreement, which are as follows;

- It would be preferable for a clause to be agreed that the four penthouse apartments be retained in the same ownership as the remaining apartments, because in the scenario that they were sold, the Council would seek the proceeds from the sale price to be invested in the holiday business. It is understood that the applicant is agreeable to this.
- A provision should be included within the S106 agreement to ensure that if more than 14 units on the site (including the 4 proposed in this application) changed to permanent residential use that an

affordable housing contribution is paid to the Council.

- The Council's Solicitor advises that there would be no advantage to either party in limiting the right to request a modification until 12 months has elapsed.
- Given the nature of the proposed clauses it is also proposed that, in addition to the contributions outlined below, a monitoring contribution be levied in order that the clauses proposed (such as maintaining a register of holiday makers) can be monitored.
- Minor drafting issues.

S106/CIL -

The following S106 contributions would be required to offset the impact of the creation of the four new dwellings on local infrastructure;

Waste Management	£200
Sustainable Transport	£5487
Lifelong Learning	£146
Greenspace and Recreation	£3007
South Devon Link Road	£5200
Admin charge	£702
Total	£14,742

The total payable would be reduced to £14,005 for early payment.

Conclusions

In conclusion, the application is to modify the existing S106 agreement to allow the use of four penthouse holiday apartments for permanent residential accommodation. The applicant has advised that this is needed to maintain the viability of the business. The remaining 13 holiday apartments would continue in holiday use although short term letting is requested outside the main holiday period.

The application site is within a PHAA as designated in the Torbay Local Plan 1995-2011. In the "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 it falls within an Amber area. The guidance in this document supports a flexible approach to the occupancy of holiday apartments. As the majority of the apartments would remain in holiday use during the main holiday period from 1st June to 31st August it is considered that the proposal would not have an adverse affect on the holiday character of the area and would be an acceptable form of development.

Relevant Policies

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Application Number

P/2013/0658

Site Address

21 Quinta Close
Torquay
Devon
TQ1 3RW

Case Officer

Mr Scott Jones

Ward

Ellacombe

Description

Erection of dwelling for letting purposes.

Executive Summary

The scheme proposes the addition of a dwelling within the private curtilage to the side of a semi-detached property located within a residential cul-de-sac. It is important to note that the site also includes a small parcel of land between it and "The Office" building to the West, which is cited as being within the ownership of the applicant.

The scheme offers a suitably scaled and formed dwelling with appropriate parking and ancillary space for both properties. It is considered to offer suitable living environments and also to have little impact upon the character or appearance of the area. It is also considered to maintain suitable levels of amenity, with little affect upon the enjoyment of adjacent plots due to its scale, orientation and the general building arrangement across the borders.

That being said, elements of the design should be improved in order to provide a scheme that can be fully supported. The principal building line should be drawn back slightly and the principal elevation should be enlightened by the introduction of brick elements to mimic the host building. These matters have been raised with the agent and revised plans are expected.

Were the above matters addressed the scheme is considered to result in the efficient use of urban land and to provide an opportunity for appropriately formed in-fill frontage development within a residential street.

Conditions should ensure detailed design is appropriate, that suitable drainage is explored, and that the parking is instigated and kept in place. The proposal should only be approved with appropriate planning contributions secured to offset the impact upon local infrastructure.

Recommendation

Committee Site Visit; Conditional Approval; subject to revised plans that (i) draw back the principal building line behind that of the existing dwelling and (ii) confirms the site arrangement in respect to the adjacent plots to the satisfaction of the Executive Head of Spatial Planning, and; subject to appropriate conditions and secured planning contributions in-line with adopted policy guidance either by way of an upfront payment or S106 Legal Agreement. S106 to be signed or upfront payment received within 3 months of the date of this committee meeting or the application be refused for reasons of the lack of a s106.

Site Details

Residential plot within a fairly modern cul-de-sac that holds a semi-detached two-storey dwelling finished in brick and render with modern casement windows. A detached flat roofed single garage sits to the side of the dwelling. The site includes a portion of land to the East of the established side boundary between it and the adjacent single storey "Office" building. Clarity on the extent of the

additional land in ownership has been requested.

Detailed Proposals

Erection of an attached dwelling on the side elevation of the existing dwelling, together with revised parking across the site to serve the two properties. The proposed dwelling is 6.5 metres wide, which is 0.5 metres less than the host dwelling, and is 6.3 metres deep, which is 1.7 metres less than the host dwelling. The two-storey height is comparable to the host building, however due to a drop in levels the eaves height of the proposal is circa 2 metres lower than that of the host dwelling. Materials are outlined as render walls with concrete tiles and upvc windows and doors.

Summary Of Consultation Responses

Highways – No objection

Drainage Officer – Summary comment is that before planning permission is granted the applicant must supply details of infiltration tests and the detailed design for the soakaways.

South West Water – Before both surface and foul water may be permitted to be discharged into the public sewer it needs to be demonstrated that the site is not suitable for soakaway drainage.

Building Control – Full compliance with Part B and Part M would be necessary, radon prevention measures will be necessary, and SWW would require percolation tests prior to ruling out the use of a soakaway to drain surface water.

Summary Of Representations

A number of representations have been received that raise the following comments:-

- highway/parking/congestion impacts
- loss of light to surrounding properties
- visual impact
- out of keeping with the semi-detached form
- precedent
- garden grabbing

Relevant Planning History

None. The design and access statement states previous support from officers, however, this statement is incorrect according to our records.

Key Issues/Material Considerations

The key issues relate to the visual implications, potential amenity impacts, highway matters, and the quality of the residential environments produced.

Visual impacts

The scale and general form of the proposed dwelling is considered acceptable within the context, with it loosely being commensurate with that of the host property, the attached neighbouring property, and other dwellings within the vicinity. Although the development will alter the symmetry and pairing of the existing buildings, the dwelling will read as a subservient wing extension to the main property.

The window pattern and door entrance within the principal elevation is reflective of that in the host dwelling, as is the simple gabled roof form, which again offers an acceptable attribute. It is noted that the walls are to be render and it is considered that it would be more locally reflective to introduce elements of brick to mimic the established form of the existing pair and wider development.

A revised plan should be submitted to show this key part of the detailed design, as the plain render

finish currently offered would sit somewhat uncomfortably. The side and rear elevations are less sensitive and the window arrangement, which would appear to have been devised in order to limit amenity impacts, is considered acceptable. The introduction of a third property to the current pair is not considered visually harmful, given the subservience and the scope for additions within this wide plot. Development sweeps around a corner and the street holds bungalows, dwellings and a larger flat complex within its arrangement. The form is not so regimented that the introduction of the building in the plot, which sits in a quite unique location, would visually harm the streetscene. The step down responds to the slope found within the site and limits the prominence of the build when approached. It is noted that the front building line is not recessed and it is considered preferable that it is taken back one or two brick widths in order to clearly delineate the old from the new. This would also reinforce the subservience of the building. A revised plan should achieve this amendment.

Should the proposal be set back slightly from the front building line and should elements of brick be introduced to mimic the established form within the principal elevation, then the proposal is considered acceptable on visual grounds, sitting comfortably within the context and according with relevant local and national policy guidance.

Amenity impacts:

The proposal would not have an overbearing impact in respect of the neighbouring properties and its relationship, in terms of size and bulk, would not result in a materially detrimental impact on the amenities of occupiers. The relationship would be somewhat typical of many similar relationships found elsewhere in urban areas. No new unreasonable overlooking would arise from the introduction of new windows, as proposed, and the scale would limit any potential loss of light or outlook. It is pertinent to note the relationship of buildings on site and the relative perspectives of the site from the neighbouring buildings.

Highway/movement implications:

The proposal offers a revised parking arrangement that supplies two spaces each for the host dwelling and the proposed dwelling. This level of parking is considered commensurate with the scale of the two dwellings and the established general character of parking supply in the cul-de-sac. The access is similar to others in the area, being over a pavement onto the gently winding highway. There is no concern from the Highway Department in regard to visibility or the safety of the access. All matters considered the scheme is considered to offer a commensurate parking arrangement that would not demonstrably impact highway safety or movement in or around the area.

Quality of the residential environment:

The proposed dwelling is appropriately scaled and has appropriate window openings to habitable spaces in order to offer natural lighting to rooms and a degree of outlook. There is suitable ancillary parking to afford facilities commensurate with the size of the property and likely occupation, and the outdoor amenity space, although relatively small when compared to properties in the area, does offer some form of private garden. The proposed unit is therefore considered acceptable.

The impact upon the host dwelling is considered acceptable as this property maintains its own private garden space to the rear and the revised parking arrangement supplies replacement parking to the front. The removal of side windows is not considered detrimental as the property has front and rear windows, which maintains natural light to principle rooms. All matters considered the quality of the residential environment for the occupiers is acceptable.

The above comments are based upon the detail of the size of the plot outlined within the application, which takes in the side of the host property and a degree of land between it and "The Office" to the West. Greater clarity on the full arrangement between plots has been requested and any support for the proposal is given subject to further plans that offer development to the satisfaction of the LPA.

S106/CIL -

The application proposal has been assessed against the provisions of the document "Planning Contributions and Affordable Housing, supplementary document update 3, Economic Recovery measures April 2011" a financial contribution will be payable in respect of the creation of a flat to the scale indicated with mitigation for the current use. The sums are as follows:

Planning Contributions Summary (*Early payment sums indicated)

Waste Management -	£50.00	(£47.50*)
Sustainable Transport -	£1,513.33	(£1,437.67*)
Lifelong Learning -	£13.33	(£12.67*)
Greenspace & Recreation -	£913.33	(£867.67*)
South Devon Link Road -	£620.00	(£589.00*)
Total	£3,110.00	(£2,954.50*)
Administration charge (5%)	£155.50	(£147.73*)
Total with Admin Charge	£3,265.50	(£3,102.23*)

The applicant is willing to provide an upfront payment of contributions should the proposal be considered acceptable.

Conclusions

The proposal, should the subtle amendment to the design be achieved, is considered acceptable and is recommended for approval (with conditions and planning contributions in-line with policy guidance).

Condition(s)/Reason(s)

01. Prior to the commencement of development details of the following shall be submitted to and approved in writing by the Local Planning Authority:-
 - Render colour
 - Brick sample
 - Reveal detail
 - Fascia/soffit detail

Reason: To ensure a suitable form of development and to protect the visual amenities of the area, in accordance with Policies BES, BE1, H9 and H15 of the Saved Local Plan.

02. Prior to the commencement of development details of the front boundary treatment, which shall include the closure and making good of the existing vehicular opening, shall be submitted to and approved by the Local Planning Authority.

Reason: To provide a suitable form of development that protects the visual amenities of the area, in accordance with Policies BES, BE1 and H9 of the Saved Local Plan.

03. Prior to the commencement of any development, details of a sustainable urban drainage system shall be fully explored and details shall be submitted to and approved by the Local Planning Authority. Such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority. The design of any soakaways shall be submitted shall be in accordance with Building Research Establishment Digest 365.

Reason: To prevent the increased risk of flooding and protect the quality of the water environment and local amenity, in accordance with the provisions of the National Planning

Policy Framework.

04. Prior to the first occupation of the dwelling hereby approved the parking layout for both dwellings shall be laid out in full and made available for the use of vehicular parking. The spaces shall then be maintained as such for the purposes of vehicular parking at all times thereafter.

Reason: To provide a suitable form of development and to protect local amenity, in accordance with Policies H9, TS, T25 and T26 of the Saved Local Plan.

Relevant Policies

- BES - Built environment strategy
- BE1 - Design of new development
- HS - Housing Strategy
- H2 - New housing on unidentified sites
- H9 - Layout, and design and community aspects
- H15 - House extensions
- TS - Land use transportation strategy
- T25 - Car parking in new development
- T26 - Access from development on to the highway
- W7 - Development and waste recycling facilities
- CFS - Sustainable communities strategy
- CF6 - Community infrastructure contributions
- LDD6 - Affordable Housing Contributions

Agenda Item 12

Application Number

P/2013/0808

Site Address

Land Adjacent To
79 Glebeland Way
Torquay
TQ2 7RG

Case Officer

Mr Alexis Moran

Ward

Shiphay With The Willows

Description

Construction of a pair of split level semi-detached houses with associated parking.

Executive Summary/Key Outcomes

The application is for outline consent for the construction of a pair of semi detached dwellings. Access is to be considered as part of this application but the remaining matters of appearance, landscaping, layout and scale are to be addressed at reserved matters stage.

The principle of residential use on the site would be in keeping with the character of the surrounding area which is a mix of detached, semi-detached and terraced properties.

Recommendation

Subject to completion of a S106 legal agreement, outline planning permission be granted with conditions as set out at the end of the report.

Statutory Determination Period

The eight week target date for the application is 02.10.2013. The timescale for signing the S106 agreement which in this case will be on the sale of the site (as it is in the Council's ownership) will determine when the decision is issued. It is likely this will exceed the target date.

Site Details

The application site is located on an unused piece of land adjacent to 79 Glebeland Way, Torquay. The development would be accessed off of Exe Hill. Due to the topography of the land, which drops away to the south of the site, the properties will be split level having an extra storey to the rear.

Detailed Proposals

The application is submitted in outline with all matters reserved apart from access for construction of a pair of semi detached dwellings with parking.

Summary Of Consultation Responses

One letter of representation has been received which relates to drainage issues.

Summary Of Representations

Highways - consultation response awaited

Drainage - consultation response awaited

Relevant Planning History

None

Key Issues/Material Considerations

The main issues are the principle of residential development in this location, highways and the impact

of the proposal on the amenity of adjoining occupiers.

As the application is in outline with appearance, layout and scale to be considered at reserved matters stage the form of development does not need to be addressed at this time. It is the principle of the development on the site that should be considered under this application.

The principle of a pair of semi-detached properties in this location is considered to be acceptable given the mix of dwelling types that there is in the area at present, slightly further up Exe Hill there are similar examples of semi-detached and terraced properties.

In relation to amenity, the relationship with the closest neighbour to the east is considered to be acceptable with the west elevation including windows to increase natural surveillance over the footpath.

S106/CIL -

Section 106 contributions in accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery would be required for the following;

Sustainable Transport
Waste Management
Education
Lifelong Learning
Greenspace and Recreation
South Devon Link Road

The actual level of contributions would be dependent on the size of the dwellings.

Conclusions

The proposed pair of semi-detached dwellings are 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. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To ensure a satisfactory form of development and in accordance with policies BES, BE1, H2 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. The development shall not be occupied until the vehicle and cycle parking areas shown on the details to be submitted and approved under Condition 1 above have been provided and made available for use. The areas shall be kept permanently available for parking purposes to serve the development.

Reason: To ensure that adequate off-street parking is provided in accordance with policy T25 of the Saved Adopted Torbay Local Plan 1995-2011

03. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced or before the building occupied. Development shall be carried out in accordance with the approved treatment.

Reason: In the interests of the amenity of the area in accordance with Policy BE1 of the Torbay Local Plan 1995-2011.

04. 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 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 H10, L10, BE1 and BE3 of the Torbay Local plan (1995 - 2011).

05. The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum.

Reason: To ensure a satisfactory completion of development in accordance with policies BE1 and H9 of the saved adopted Torbay Local Plan 1995-2011.

Relevant Policies

BES - Built environment strategy

BE1 - Design of new development

H9 - Layout, and design and community aspects

T25 - Car parking in new development

T26 - Access from development on to the highway

Application Number

P/2013/0720

Site Address

Artful Dodger
304 Teignmouth Road
Torquay
Devon
TQ1 4RW

Case Officer

Mrs Ruth Robinson

Ward

St Marychurch

Description

Change of use from Public House (Use Class A4 - Drinking Establishment) to Pre-School (Use Class D1 - Non-Residential Institution).

Executive Summary

This application is for the change of use of a public house (class A4) to a pre-school (class D1). The site lies on a busy traffic junction with limited parking opportunities. To the rear of the site is a small existing car park with access from Happaway Road. There is a playing field to the rear of the site.

The proposed preschool is to have a capacity of 36 children aged 2-5. There will be 3 drop off and pick up times to spread the impact of visits, it will only be open from 9:15 to 16:15 to avoid peak traffic times.

The main area of concern in relation to the proposed change of use is the position of the building on a very busy highway junction with parking restrictions on all frontages. It will require those dropping off or collecting children to park some distance from the premises. Experience elsewhere in the Bay suggests that with nursery and pre schools there is a temptation to park illegally in order to deliver children quickly and to minimise the period that other children are left unattended for. Illegal parking close to the premises could create highway safety concerns.

However, Highways Officers, have visited the site and consider that the scheme is acceptable, subject to requirements in relation to traffic orders/new signage/vegetation trimming and the removal of onsite car parking and management of staff parking through a Travel Plan.

In other respects the building is well suited to the proposed use: It is detached, thus minimising impact on neighbours and within a short walk to the rear is a large public open space which will be accessible for supervised play. The existing car park to the rear of the property will be converted to a small gated play area.

Recommendation

Conditional Approval (suggested conditions at end of report); Subject to S106 to secure highway contributions in order to provide traffic regulation order, signage and vegetation clearance.

Statutory Determination Period

8 weeks expiring on the 31st August.

Site Details

Comprises a vacant public house located on a busy traffic junction and with limited parking opportunities. To the rear of the site is a small existing car park with vehicular access from Happaway Road. The site adjoins a playing field to the rear.

Detailed Proposals

Is a change of use from public house (A 4) to Pre- school use (D 1)

As part of the proposals, the main pedestrian entrance to the building will be relocated to the rear with access from Happaway Road, and the rear car park will be converted to a gated garden area for outside play.

Summary Of Consultation Responses

Highways have no objection subject to the payment of £1500 to cover a traffic order to restrict loading from the front of the building, a replacement sign for the pedestrian crossing and cutting back of vegetation.

Highways also request the removal of onsite parking and the management of parking/access via a Travel Plan to be submitted prior to construction.

Community Safety: raise matters of food safety/waste which are not relevant to planning.

Summary Of Representations

An anonymous e mail has been submitted raising concerns about the busy nature of the road, the lack of parking, the possibility of abuse of parking restrictions, difficulties of picking up and dropping of, danger of park area to the rear through litter and needles.

Ward Members, on being consulted through the SRM procedure, requested that the application be referred to DMC.

Relevant Planning History

None.

Key Issues/Material Considerations

The highway implications of the proposal are the main issue here. The building is located on a busy traffic junction with double yellow lines around the plot and restricted parking opportunities nearby.

The proposed preschool is to have a capacity of 36 children aged 2-5, there will be 3 drop off and pick up times to spread the impact of visits, it will only be open from 9:15 to 16:15 to avoid peak traffic times. The existing preschool, which is based in the Acorn Centre has 41 pupils and only 12 of the families have access to a car for delivery and collection of children. They anticipate a similar pattern at the new school as the children are from a 'deprived area' and as such it is thought that most children will walk to school accompanied by a responsible adult. The supporting information stresses that access by foot will be heavily promoted through the Travel Plan. However, there can be no guarantee that anticipated low levels of vehicular access will continue or that how parents access the school can be fully controlled through a Travel Plan.

The main area of concern is the position of the building on a very busy highway junction with parking restrictions on all frontages. It will require those dropping off or collecting children to park some distance from the premises. Experience elsewhere in the Bay suggests that with nursery and pre schools there is a temptation to park illegally in order to deliver children quickly and to minimise the period that other children are left unattended for. Illegal parking close to the premises could create highway safety concerns.

However, Highways Officers have visited the site and consider that the scheme is acceptable subject to the requirements in relation to traffic orders/new signage/vegetation trimming and removal of onsite car parking and management of staff parking through a Travel Plan.

In other respects the building is well suited to the proposed use: It is detached thus minimising impact

on neighbours and a short walk to the rear is a large public open space which will be accessible for supervised play. The existing car park to the rear of the property will be converted to a small gated play area.

S106/CIL -

There will be a need to secure costs of traffic order/signage/vegetation trimming via either a S106 or unilateral undertaking.

Conclusions

Given Highway Officers support for the scheme and given the appropriateness of the scheme in all other respects, it is considered on balance that permission should be granted subject to the following conditions and a s106 or unilateral undertaking in relation to the highway works.

Conditions:

Hours restriction

The implementation of the garden area and new access

The delivery of the specified traffic orders and vegetation trimming, and; Travel Plan to minimise traffic impacts/parking concerns

Relevant Policies

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Agenda Item 14

Application Number

P/2012/0566

Site Address

Rock House
Rockhouse Lane
Torquay
Devon
TQ1 4SX

Case Officer

Mrs Ruth Robinson

Ward

St Marychurch

Description

Construction of new dwelling in kitchen garden to South of Rock House and conversion and extension of existing stable block into dwelling house to North of Rock House including provision of independent access from road to the East

Executive Summary/Key Outcomes

This application involves the construction of 2 dwellings within the grounds of Rock House; a grade II listed building on Rock House Lane Maidencombe. The main house is in a state of disrepair and in urgent need of investment to repair the roof and halt further deterioration of the fabric of the building.

Rock House is located in a 'countryside zone' where 'sporadic' residential development is ordinarily resisted. Paragraph 55 of the NPPF does allow exceptions to exclusions to rural housing if development acts in a way to secure the future of heritage assets. In addition, the dwellings are to replace existing disused buildings within the grounds in order to minimise the impact of the new development.

The development is, now that a vehicular access across open fields and woodland has been deleted, acceptable in terms of its design and impact on the character of the listed building and wider protected landscape.

For this reason it is considered that the application should be supported subject to the receipt of additional information in respect of the impact on a specific tree, surface water drainage, conditions as detailed below and the conclusion of a S106 agreement to secure implementation of an agreed schedule of works for essential repairs to the roof and associated remedial works to restore and retain the Listed building.

Recommendation

Committee Site Visit; Conditional Approval (schedule of suggested conditions at end of report); Subject to the additional information in relation to trees, drainage and sewerage treatment, subject to the signing of a S106 agreement to secure investment in Rock House, specifically scheduled works to roof and associated damage to the Grade II listed building. The legal agreement is to be completed and signed within 3 months of the date of this committee meeting.

Statutory Determination Period

8 weeks expiring on the 7th July. The delay in determination arises from awaiting revised plans deleting vehicular access to stable building.

Site Details

Rock House is a Grade II listed building set in extensive grounds in a countryside location on the edge of Maidencombe village. The Listed building is in a dilapidated state with substantial sums required to be spent on roof repairs to weatherproof the structure in order to prevent further deterioration. There is

a range of ancillary outbuildings within the grounds including stables, greenhouses, with cottages and garaging.

Rock House is within the defined Countryside Zone, and prominent within the Coastal Preservation Area and Area of Landscape Value. The cumulative impact of these policies is to resist sporadic residential development and to protect the landscape character of the area. There are also a range of protected trees on the site.

Rock House currently has 2 points of vehicular access, one via the main gated access and the second via a secondary access adjacent to the stable/garage building. Rock House Lane is a narrow and steep route with limited passing places.

In summary, the scheme involves the redevelopment of an existing stable building and a greenhouse within the walled garden to provide 2 new dwellings on the site, with the profits being secured through a S106 agreement and invested in essential repair works to the roof of Rock House.

Detailed Proposals

The application is for the construction of 2 new dwellings within the grounds, one within the walled garden in the place of the existing glasshouse and the second to replace the existing stable/garage building.

The former involves the creation of a vehicular access via the main access to the site and the latter previously involved the creation of a new vehicular access across fields to the north of the site. This has now been deleted and the existing access from Rock House Lane is to be utilised instead.

Summary Of Consultation Responses

Conservation Officer: Satisfied that the proposed dwellings are acceptable from a design perspective and are needed as enabling development to secure the future of the listed building.

Arboriculturalist: Had concerns about the impact on mature trees of the now deleted vehicular access to serve the stable/garage building. Requires additional information about the impact of the dwelling within the walled garden on a large Lime Tree. Broad support is given for the proposals if certain safeguards can be achieved.

Highways: Require improvements to visibility and safety due to the increase in usage of the access road. Amended comments are awaited following deletion of the private drive which was of some concern in terms of visibility.

Drainage: Requires additional detail in respect of the means of disposing of surface water and the design of the private treatment plant designed to dispose of foul sewage.

English Heritage: Consider the matter should be determined in line with local policies.

Summary Of Representations

There have been a number of objections to the scheme. The main areas of concern are as follows:

1. The access is unsuitable being narrow and steep.
2. It will adversely affect the setting of Rock House/Foxcombe Valley.
3. It will not meet local housing needs.
4. It will clutter site and set unfortunate precedent.
5. The use of an enabling development argument is inappropriate in this instance and could encourage other similar applications.
6. It will impact on wildlife.

7. Concerns about possible location of sewerage treatment plant in woodland area.
8. Impact on trees particularly from the proposed access to the stable dwelling.
9. Concern that scale of walled garden dwelling is out of character.
10. Flood risk arising from drive access and loss of trees.
11. Need to comply with EH criteria regarding enabling development.
12. Impact on views from/ viability of Orestone Manor Hotel.

The Maidencombe Residents Association and the Ashley Priors Amenity Association object to the application for reasons summarised above.

Relevant Planning History

Pre application discussions have taken place over several years in an attempt to identify an appropriate form of development that would secure the fabric of the listed building without harm to interests of acknowledged importance.

Key Issues/Material Considerations

There are a number of key issues. For the purposes of the report, these can be usefully summarised as below.

1. Appropriateness of 'Enabling Development' concept

The construction of new dwellings in this location would not ordinarily be acceptable due to the policy designation as 'Countryside Zone' in the adopted Local Plan. However, the NPPF, in considering the impact of rural housing, does allow for special circumstances where such development may be acceptable and this includes opportunities for 'enabling development' to secure the future of heritage assets.

Rock House is in a dilapidated state and the roof is in urgent need of repairs. It is unlikely that the current owner will be able to fund these works and the building is deteriorating. Whilst not strictly complying with EH criteria for enabling development, as the property has a value which could be realised if sold, the opportunities for low key well designed discrete development that would have minimal impact on the area, yet deliver the return to the owner to allow her to remain in her home have been explored. This exercise focused on 2 locations where development could be accommodated with limited impact on the setting of the listed building, on the character of the wider valley and on neighbours.

If it can be shown that proposed dwellings are of an exemplary design and do not adversely affect the character of this sensitive location, then it is considered that the development could qualify as an exception to the normal presumption against residential development in rural areas. This is because it will secure the future of this heritage asset through a S106 agreement which will ensure that any profit is ploughed back into the listed building.

Costings and a schedule of works have been supplied to show that this level of development can meet the refurbishment needs of the listed building and grounds.

2. Highway issues

The most damaging aspect of the proposal, the inclusion of a wholly separate drive to serve the proposed stable building has now been deleted in preference to the use of the existing access point adjacent to this building. The new route would have cut across open fields and woodland, would have exacerbated the visual impact of the scheme on the landscape character of the area through loss of trees and exposure of the tarmac finish to a wider view, it would have increased flood risk and impact on wildlife and biodiversity and would have made vehicular access problems more acute. Reversion to use of the existing vehicular access was widely suggested in letters from neighbours to the site.

3. Quality of design/relationship to setting of Rock House and wider Foxcombe Valley

The 2 sites were selected because of the ability to be sympathetically accommodated within the overall character of the site and the ability to replace existing built structures so as to minimise the additional built form in the landscape.

The stable/garage building is an existing structure which is not of any particular merit and is in a poor state of repair. Its conversion and extension to provide a well designed home on a similar footprint and to a similar scale and form arguably improves upon the existing situation. The design is well thought out and sits comfortably in its context using a palette of timber, render and stone.

The walled garden site is removed from the immediate setting of the listed building and involves replacement of a redundant and derelict green house which is set within a walled garden with a building of a similar design to the one described above. It is single storey and hugs the existing wall in a similar fashion to the existing greenhouse. It is well screened from views across the valley due to the position of the walls and the low level nature of the proposed dwelling.

The materials to be used, timber and stone help 'ground' the scheme into the overall character of the garden. Whilst it is close to the northernmost boundary of Orestone Manor Hotel, it is not considered that the impact of the proposed dwelling will be damaging to the future viability of the hotel as suggested in the letter of objection from the hotel owner.

The Arboriculturalist still requires some additional information to be supplied in relation to the impact on a large Lime Tree and this will need to be supplied before a decision can be issued.

4. Impact on trees/wildlife

With development confined to the existing stable building and the walled garden, the implications in respect of trees and wildlife is much reduced and is largely confined to the Lime Tree adjacent to the walled garden which should be resolved in line with the Arboriculturalists requirements.

5. Flood Risk

The deletion of the private drive reduces the concerns about surface water and flood risk, as trees are retained and impermeable materials reduced. It is likely that with an appropriate drainage strategy the development will not materially increase flood risk in the area.

6. Sewerage treatment/ drainage

These details are also required in advance of permission being issued to ensure appropriate sustainable drainage methods are used where possible. It is also important to know that trees won't be affected by their construction.

7. S106/CIL

A S106 agreement will be required to ensure that the schedule of works agreed as being necessary to secure the fabric of the building are carried out in accordance with an agreed timetable.

Conclusions

Whilst ordinarily contrary to policy, the inclusion of 2 additional dwellings is now acceptable following deletion of the private drive across the adjacent fields.

This is because the profit from the development will be invested in securing the future of this dilapidated listed building through a S106 agreement requiring an agreed schedule of works to be carried out. The buildings are also discrete, well designed and do not affect the visual amenity of the area, the setting of the listed building, or the landscape character of Foxcombe Valley.

Additional information is required in relation to the tree works in the walled garden to demonstrate that the large Lime Tree is unaffected by the proposed development, and in respect of surface water drainage and details of the private sewer plant and its location.

Recommendation

Committee Site Visit; Conditional Approval; Subject to the additional information in relation to trees, drainage and sewerage treatment, subject to the signing of a S106 agreement to secure investment in Rock House, specifically scheduled works to roof and associated damage to the Grade II listed building. The legal agreement is to be completed and signed within 3 months of the date of this committee meeting.

Suggested conditions briefly itemised below:

1. 1:5 and 1:20 details of each elevation/key features.
2. Samples of materials/sample panel of stone.
3. Any outstanding tree information.
4. Implementation of drainage strategy
5. Detailed hard and soft landscape proposals.
6. Details of all fencing/boundary changes/gates.

Relevant Policies

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Application Number

P/2013/0677

Site Address

Land At Edginswell Business Park
Of Orchard Way
Torquay
TQ2 7FA

Case Officer

Mr Alistair Wagstaff

Ward**Description**

Formation of an (A1) Tesco store (inc. customer cafe) and approximately 977 sq.m. B1 office development on plots Vesta and Edesia at Edginswell Business Park associated infrastructure, retaining structures, access, parking and landscaping and outline planning application for the development of a B1 office building of 2090 sq.m on the Sarritor plot , A3/A5 unit with associated access and parking - This is a departure from the Local Plan

Executive Summary/Key Outcomes

This revised application is for the construction of a Tesco store (approx 77,000 sq ft/7,000 sq m), with associated access improvements and parking (371 spaces) and three office buildings.

The proposed store is to have a gross new internal floor area of 4451 m². The floor area would be divided into 3375m² of convenience goods, 580m² of comparison goods, and a customer café. The previous application proposed 2795m² convenience goods and 1160m² comparison goods, and a customer café. As such there is a substantive reduction in the amount of proposed comparison goods floorspace, but an increase in the amount of convenience goods floorspace proposed.

If planning permission were granted Tesco state in their submission that they would commit to the following obligations:

- Delivery of all new highway infrastructure and travel plan measures
- To maintain Tesco stores representation in Torquay, Paignton and Barton hill Road for 5 year of the granting of consent
- To construct 977 m² of office space
- To Service the plot for further outline office building with a financial contribution to cover the viability gap for the building's delivery in market terms
- A financial contribution of £2million towards gap funding the proposed outline office block, transport, employment and town centre initiatives and other SPD requirements
- Working with local employment providers to deliver as many jobs locally as possible (around 200 in the Tesco store).

There are a number of key issues relevant to the consideration of this proposal:

1. Existing Local Plan policy

The application site is allocated for B1 office development in the Torbay Local Plan 1995-2011. As such, notwithstanding the provision of offices within the scheme, this proposal does not comply with existing Local Plan policy. In accordance with the NPPF, the Council has previously explored alternative uses of the site but these have not been forthcoming. Recent confirmation of funding for the South Devon Link Road is a potential 'game changer' for this gateway site, which should now be extremely attractive to investors for business park/employment purposes. The proposal would result in loss of a substantial area of the site for employment purposes. There is no over-riding reason to allow such a loss.

2. The availability of town centre sites

The existing Local Plan identifies town centres as the focal points for retail provision and requires proposals for new retail provision outside town centres, to show that the demand cannot be fulfilled within existing centres. The Local Plan is consistent with the NPPF on this issue. Whilst the applicants contend there are no other suitable sites within the town centre, Members will be aware of proposals to bring forward the Town Hall Car Park site in Torquay, which could provide a similar sized food store.

3. Retail/town centre impact

The proposal includes convenience (mainly food) floor space, totalling 3375m², and comparison goods space totalling 580m². This level of provision is in excess of Torbay's needs, as evidenced in the recently updated (Sept 2011) retail study. Furthermore, questions have been raised over the adequacy of the submitted retail study, since its assumptions in relation to growth in retail demand rely upon both growth in spending power and growth in population. The retail assessment's population projections are based upon 2010 information and do not take into account the 2011 census or the recent DCLG projections, both of which lower expected population growth. Given that population is not now expected to grow to the extent predicted in 2010 and given continued economic uncertainty, the retail impact of the store could be more acute than the assessment predicts.

The proposal will have a negative impact on existing food retail provision in town centres and local centres. The availability of convenience goods, on the scale proposed, would have a negative impact on Torquay Town Centre in particular, compounding the town centre's recent poor trading performance, and would undermine efforts to regenerate the town centre.

4. Emerging/refreshed planning policy

A new Local Plan is being prepared, but carries little weight in planning terms. However, the Council has adopted guidance (Future Retail Development in Torbay, Jan 2010) which acknowledges that a thriving retail sector in Torbay is essential to economic success. Importantly, it supports the provision of local food provision, alongside other services, in new or existing local centres (e.g. White Rock; Three Beaches). These local centres are vital to sustainable, well balanced communities in the Bay. The proposed Tesco store would not be consistent with this approach, is not in a 'gap area' for food retail provision and is likely to have a negative impact on local centres.

5. Other material considerations (e.g. design; highway impact; S106 requirements)

The site is important, in design terms, as a gateway site to Torbay. Its importance as a gateway site has been enhanced by the construction of the South Devon Link Road. The proposed development will be unduly prominent given the combination of its design, scale, bulk, height and massing and will not make a positive contribution to local distinctiveness or place making. The applicant has failed to demonstrate that the proposed store and offices can operate without a negative impact on the highway network. There will be a requirement for a s106 obligation in the event of approval, the lack of a signed agreement would therefore need to be an additional reason for refusal.

Recommendation

It is acknowledged there are some benefits to the proposal that may be attractive to Members, such as the potential for job creation that would be associated with the store and the construction of approximately 30,000 sq ft of office space. However, it is not considered that these benefits would outweigh the harm, particularly over the long term, that would be caused by this proposal.

The reasons for refusal are set out at the end of this report. These follow the issues set out in the Executive Summary and relate, primarily, to the policies/principles set out in the existing Local Plan, more recently adopted retail policy, and the National Planning Policy Framework.

Statutory Determination Period

13 weeks, expiry date is 26th September

Site Details

The application site relates to part of the Edginswell Business Park site and is bounded by Hamelin Way to the west, the railway line and the A3022 Riviera Way to the north and properties accessed from Edginswell Lane to the south. The site is currently undeveloped. The site area is approximately 3.88 hectares (9.6 acres).

To the east, three office buildings have recently been constructed, one of which is in use by the NHS as a Renal Unit. Vehicular access to the site is via Orchard Way off the Newton Road. The ground levels on the site are lower than Hamelin Way and the A3022 and the site slopes from east to west. There are wooded embankments on the northern and western boundaries.

In the Torbay Local Plan 1995-2011 the site is allocated for Employment. There are designated wildlife sites along the railway and along the eastern side of the site. A buffer zone is shown around the north, south and east boundaries for strategic landscaping. Trees in the area are covered by TPO 2001.08.

Detailed Proposals

The application is submitted in full for a supermarket with a gross new internal floor area of 4451 m² the floor area would be divided into 3375m² of convenience goods, 580m² of comparison goods and a customer café. For information the previous application proposed 2795 m² convenience goods and 1160 m² comparison goods with a customer café. The proposed store would stand on stilts above a car park for 371 vehicles. This would include the provision of 20 dedicated disabled spaces and 18 parent and child spaces. 46 cycle parking spaces would also be provided.

The floor area of the store excludes the area for cage marshalling and Dot Com marshalling. The service yard would be located to the south east of the store and would be accessed via a ramped road used exclusively by service/delivery vehicles. The service yard is now proposed to be covered.

The store would be at first floor level and would be accessed via travelators or lifts. There would be a bus stop and recycling centre located at the site entrance.

The height of the proposed store would be approximately 13 metres, the width approx. 94 metres and the typical depth 71 metres.

Submitted in full is a proposal for two office buildings Office D (sarritor House) approx. 689m² net on two floors (790m² gross) and Office E (Edesia House) approx. 157m² (187 m² gross). These two buildings have already received planning permission under the second phase of the master plan.

Submitted in outline is a proposal for a B1 office of 2090 m² gross floor area, which has not previously received planning permission. The proposed building would be three storeys high. 45 car parking spaces would be provided. An A3/A5 use class unit (café/restaurant with takeaway) is also proposed with a floor area of 250m², it is shown with a drive through facility and 24 car parking spaces. The only matter under consideration for these two outline buildings is access.

The primary access to the site would be from Riviera Way A3022 via improved junctions with Newton Road and between Orchard Road and Newton Road. It is proposed to widen Newton Road up to the junction with Riviera Way to allow a two lane approach. A new roundabout is proposed at the junction of Edginswell Lane and Collaton Road.

The new South Devon Link Road will terminate adjacent to the application site on Hamelin Way, but

will not link directly into the site.

If planning permission were granted Tesco state in their submission that they would commit to the following obligations:

- Delivery of all new highway infrastructure and travel plan measures.
- To maintain Tesco stores representation in Torquay, Paignton and Barton hill Road for 5 year of the granting of consent
- To construct 977 m2 of office space
- To Service the plot for further outline office building with a financial contribution to cover the viability gap for the building's delivery in market terms
- A financial contribution of £2million towards gap funding the proposed outline office block, transport, employment and town centre initiatives and other SPD requirements
- Working with local employment providers to deliver as many jobs locally as possible (around 200 in the Tesco store).

The application has been screened by the Council under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and it was concluded that no Environmental Impact Assessment is required.

Summary Of Consultation Responses

Arboricultural officer - Potentially suitable for approval if the following points can be addressed: i) Information required on the retaining wall and tree G2, ii) net gain for bio diversity should be ensured, iii) require detailed landscaping plan including strategic trees, iv) a condition requiring tree protection fencing during construction.

South West Water - No objection, no development should be within 5 metres of public sewers, if this is not possible sewers will require diversion.

Environmental Health - Note that the background noise level drops significantly during the night time period. However there is concern that increased traffic movement, particularly the movement of HGVs and vehicles making deliveries to and from the store will result in detriment to the amenity of nearby residential property. In order to preserve the amenity of the locality, particularly the closest residential properties, at Edginswell Farm, it is recommended that a condition is placed on the consent limiting the hours of deliveries to between the hours of 07:00 to 00:00 and that an acoustic barrier is provided to the access road.

It is also recommended that the details of all plant and equipment to be installed on site complete with predicted noise levels at the nearest noise sensitive receptor are submitted and approved by the Local Authority prior to development.

Environment Agency - The application should be refused unless access to Edginswell stream/Aller Brook is addressed for maintenance purposes, without this there will be potential impact on flooding upstream.

Natural England - No objection, the scheme should seek enhancements to landscaping and bio diversity. Allude to previous comments, which can be summarised as: the site lies at the extremity or a wider corridor of land identified as of potential strategic significance as a flyway for greater horseshoe bats associated with the South Hams SAC. The ecology report should take reasonable account of this and recommend that the landscaping associated with the project includes the creation and maintenance of new habitat suitable for commuting and/or foraging greater horseshoe bats, e.g. native broadland planting that is not affected by artificial illumination at night.

Network Rail - No objection in principle, note potential impact of increased flow to Culvert, request more information relating to drainage and run off amount/rate into the watercourse which may identify need for potential remediation/ improvement works. Additional comments regarding construction impact on railway, which should be secured if application is to be approved.

Torbay Coast and Countryside Trust – Green Infrastructure Co-ordinator:

- The vegetation on land adjacent to both Hamelin Way and Riviera Way forms important green buffers around the site that provide visual screening and habitat opportunities for wildlife. These areas are outside the applicants control and are thought to be within the ownership of Torbay Council. It is suggested that a contribution from the developer is secured for additional planting and long term maintenance.
- It is difficult to assess the visual impact of the scheme without seeing accurate photomontages of the proposed scheme. It is suggested that photomontages are produced from locations agreed with Torbay Council officers in accordance with the Landscape Institute Guidance 'Photography and photomontage in landscape and visual assessment' [1]
- The building is in the bottom of a valley and therefore there are a number of vantage points from which the roof will be seen. A green roof would help to soften the visual impact of the proposed building and also provide a range of green infrastructure benefits such as rainwater attenuation and habitat opportunities.
- There is concern that the scheme may not achieve a net gain for biodiversity. The applicant should provide further evidence to show the net biodiversity effects. If the scheme cannot avoid, mitigate or provide adequate compensation on site it will be necessary to consider offsite biodiversity measures in order to achieve a net gain. Torbay is part of a Defra biodiversity offsetting pilot project which uses a metric to assess biodiversity impacts of projects and provide opportunities for delivering enhancements on alternative sites. Further information can be found on the Defra website[2] and the Devon Local Nature Partnership website[3].
- The land between the application site and the railway line is an important wildlife corridor and could, if managed appropriately, provide further habitat opportunities. It is suggested that the applicant investigates the ownership of this land and seeks to include it within the application. A suitable capital works program and management regime could then be agreed to provide measurable improvements to biodiversity that contribute towards a 'net gain'.
- There is potential to provide better sustainable transport (walking/cycling) links from neighbouring communities to the site. The plan on p33 of the Design and Access Statement shows a 'potential to provide a pedestrian/cycle link to new footpath in the future' and it is suggested that this is secured by planning condition.
- There is a missed opportunity to provide green spaces e.g. picnic areas. This is particularly relevant to the proposed cafe and office uses.
- The Torbay Green Infrastructure Delivery Plan[4] has 'Local Food' as one of its four priority themes and details the need to support local food hubs with associated benefits of lower food miles, reduced carbon emissions and support to the local economy. In addition a local Food Summit held in 2009 identified lack of local producer outlets in towns as one of the key issues around local food production in Torbay. An out of town supermarket, especially when there are already others in the vicinity, is therefore contrary to the aims of the Green Infrastructure Delivery Plan.

Strategic Transport – Object to the proposal - comments remain to be formalised and updated – these will be reproduced for the late representations.

However, it is known that strategic transport and highways have concerns about the traffic impact of the proposed development. The scheme will impact key junctions of the strategic road network (Scotts Bridge, Lowes Bridge) these will be significantly over capacity, as will Orchard Way / Newton Road, and this accordingly will hinder free flow of traffic for Torquay, the hospital, and the Edginswell Business Park.

Sufficient mitigation measures have not been identified to deal with these issues, further concerns likely to include:-

- The assignment of traffic onto the network and under counting of new trips,
- Omission from modelling of Shiphay junction,
- The use of retail floor area (RFA) as opposed to gross floor area for calculating trips – were the store to increase RFA in the future, this would increase trips further,
- How service access will operate, given traffic volumes, and
- Staff, shoppers, and office workers obstructing access roads on and around the site.

Torbay Town Centres Company - object to the application on the grounds:

- The application is a major departure from the site's current designation
- There is no established need for the facility, as there is significant provision within the area
- An objective of the NPPF is to ensure the vitality of town centres
- The Torbay Local Plan, Draft Local Plan and Neighbourhood Plan supports the principle of town centre development rather than outside of existing centres.

Kestrel Consultants Ecology Consultee - Conclude that there is not likely to be a significant adverse effect on the integrity of the South Hams Greater Horseshoe Bat SAC, there is no need to undertake a full Appropriate Assessment for this application.

Teignbridge District Council - No objection to original application and no further comment on this application.

Torbay Development Agency - The TDA support the prior recommendations of the Council's retail advisors, GVA Grimley on retail policy issues and support Torbay Council's planning officers on planning issues. The views of the Torquay neighbourhood forum, which supports the Town Hall scheme at Castle Circus and rejects the Edginswell proposals have also been noted.

The TDA's primary concern in this matter is the economic regeneration of Torbay, as such the retail economy of Torquay town centre is crucial to employment and the economic future of the area and it also impacts on other key aspects of the economy such as Tourism and Torbay's potential to attract inward investment. The issue of the development of new supermarkets is especially important, as Torbay Council and the TDA believe that any further supermarket provision should be town centre located to support the existing town centre retailers.

In addition to the economic impact of a 'town centre first approach' to retail provision, the TDA is also acutely aware of the social implications of a town centre scheme being developed on the Castle Circus site, as some of the most deprived wards in the area are in close proximity to this location, which have some of the most tangible indications of deprivation in Torbay. The residents of these wards are currently very poorly served by the access to suitable supermarkets in the area, the closest being Waitrose which is situated in Plainmoor. The TDA believes that a food store at Castle Circus will reduce the incidents of food poverty and improve the availability of healthy food choices by providing better access to affordable food and provide a more diverse range of healthy food choices for those without access to car transport.

The town centre first approach is essentially required in part because of the contribution it will make in supporting other town centre retail provision for reasons associated with the overall economic viability and vitality of the town centre. There is however a second compelling rationale for adopting a town centre first approach which relates to social considerations. The town hall car park site will also provide employment opportunities to those disadvantaged wards which have disproportionately high unemployment rates. A town centre location is a considerably better position in which to create food retail employment as it is within walking distance of the most disadvantaged wards. The proposed development at Edginswell by contrast would be considerably less accessible by convenient public

transport links to these disadvantaged wards and could result in the Town Hall scheme failing to proceed, or it proceeding on a smaller scale.

The TDA further object to the application due to the impact on the availability of employment land. The previous consent at Edginswell for bulky goods/non-food retail was justified in the context that it enabled the development of employment land. The applicants are using the same argument to justify a further reduction in the amount of employment land. The decision to increase the amount of office provision and reduce other forms of employment land use has had the effect of disguising the reduction of employment land by focusing on the amount of employment opportunities that will be created in an office based environment. This may reduce the opportunity for the market to provide employment opportunities by increasing the amount of office space proposed (where there is a recognised viability gap), therefore it has artificially created a requirement for more gap funding. Protecting employment land for office development is desirable to allow for gap funded schemes and/or demand led schemes that may come forward on 'a cost plus' basis.

Edginswell is going to be the point of arrival into Torbay and as such the TDA believes it is vital that this key gateway site is protected for high quality prestigious employment uses that reflect a confident and prosperous town. The TDA does not believe that a supermarket and other A5 uses, which could be fast food outlets, present the right impression for Torbay.

It is on this basis that the TDA therefore recommends that this application be refused.

Previous consultation responses

Senior Historic Environment Officer - the area of the business park including the area of this application was subject to a detailed archaeological assessment in April 2004 and followed up by further work in July 2007. The assessment and evaluation should be revisited to ascertain if further environmental archaeological deposits should be taken from the surviving deposits before their removal during development.

Summary Of Representations

A considerable number of letters of objection have been received, this includes a number of standard letter template objections. The representations are available for inspection on the Council's website and in the Members room. Letters of objection has also been received from the Green Party, Barton and Watcombe Community partnership, Wilkinsons, Paignton Neighbourhood forum, Debenhams, Friends of the Earth, Edginswell Residents Association, and Union Square Management Company.

The key issues raised in the representations are as follows:

- No need for the store as there are other supermarkets in the area e.g. M and S, Asda, Lidl, Sainsburys
- Only minor changes from the previous scheme
- Major departure from local plan which designates site for B1 office use and a high quality business park
- Not consistent with Neighbourhood Plan
- Impact on the surrounding environment
- Impact on the Business park, loss of employment space and jobs
- Impact on Car parking, on Business park and surrounding area
- Impacts on the surrounding highway network and road safety
- Impact of traffic generated on Hospital and emergency vehicles
- Contrary to Local and National policy
- Impact on Town Centre including cumulative impact from nearby stores
- Impact on Local retail centres
- Visual impact, impact on key gateway location to Torquay

- Noise, air and light pollution
- Evidence base for RIA is unsound, specifically population figures
- Impact on the amenity of surrounding residential areas
- Impact on local employment and lack of full time positions
- Loss of employment space
- Lack of provision of high skilled/ professional jobs
- Impact on Listed Building (The Manor House and Barns)
- Impact on Landscape Character of the area
- Loss of Greenspace between Torquay and Kingskerswell
- Impact on wildlife
- Proposals do not meet the sequential test for retail provision, there are sequential sites
- Inappropriate out of centre development

Support

1 letter of support has been received stating the Council has supported schemes for other stores why not Tesco's, allow shoppers to chose.

Relevant Planning History

- 1987/1367 Retail Superstore Development with Car Parking, Access Roads and Petrol Filling Station (In Outline). Refused 4.11.87
- 1987/2003 Retail Superstore Development with Car Parking and Access Roads (In Outline). Withdrawn.
- P/1988/0587 Erection of retail food store, car parking, petrol filling station, access roads, landscaping and associated works (in outline). Refused 2/9/1988. Subsequent appeal dismissed by letter dated 26.2.90.
- P/2001/0787 (Phase 1) Erection of new building for high tech company for use classes B1 (business) and B8 (Storage/distribution) with vehicular and pedestrian access. Refused 12/4/2002.
- P/2001/0788 (Phase 2) Erection of new buildings for use classes B1 (business) and B8 (storage/distribution) (employment units) and supporting C1 (travel Inn), A3 (food and Drink) and D2 (Leisure uses) with vehicular and pedestrian access (in outline). This is a departure from the Local Plan. Refused 12/4/2002.
- P/2002/0154 Erection of 60 bedroom 'Travel Inn' hotel and integral 'Brewers Fayre' restaurant/public house on lower, ground, first, second and third floors with vehicular/pedestrian access from Edginswell Lane and car parking. Refused 12/4/2002.
- P/2004/0884 Development of business park comprising business uses (B1) and a car show room, associated landscape works, alterations to adjoining highways and car parking (revised scheme to previous refusal). Refused 10/8/2004.
- P/2004/2118 Development of business park comprising business uses (Class B1) and a car showroom, associated landscape works, alterations to adjoining highways and car parking (revised scheme to previous refusal) (In outline). Approved 20/1/2006.
- P/2006/1011 Development of phase 1 of business park comprising mixed use of offices, buildings, infrastructure (class B1 use) with vehicular/pedestrian access. Refused 24/10/2006.
- P/2006/1116 Highway works/associated with planning application P/2004/2118. Approved

26/9/2006.

- P/2007/1743 Mixed use development comprising business use class B1, car showroom, retail warehouse and residential and public house/restaurant (class A3/A4) with associated highway works and car parking (in outline). Approved 6/6/2008.
- 2008/1682 Mixed use development comprising business uses (B1); cafe/restaurant (A3) and specialist renal clinic (D1) with associated landscaping works, car parking and vehicle/pedestrian access. Approved 23.3.09.
- P/2012/0280 Application for full planning permission for a Tesco store (4451 sq m/47,910 sq ft total sales area), of which 2795 sq m convenience goods space and 1160 sq m comparison goods space, including a customer café; 977 sq m (10,516 sq ft) office development (2 no. buildings); associated infrastructure (including new roundabout on Orchard Way and widening of Newton Road between Orchard Way and Riviera Way); new access; 442 parking spaces (of which 371 for Tesco); and landscaping. Outline application for development of a B1 office building (2090 sq m) with associated parking and access (all matters reserved except layout and means of access). Refused 22.06.2012

Key Issues/Material Considerations

The key issues to be considered are the principle of the proposed uses on the site, the retail impact, the visual impact, highways, impact on neighbours, trees, landscape and ecology, drainage, flood risk and sustainability.

It is a very material consideration, given that the decision was made last year, as to whether the scheme has overcome the refusal reasons of the previous application P/2012/0280.

Principle and Planning Policy -

Employment

In the Torbay Local Plan 1995-2011 the application site is subject to Policy E1.2B which requires new development to be principally class B1 use (offices and light industrial) with limited B8 use (warehouse and distribution). In the explanation to the policy, clarification reveals that the intention is for the site to be used as a well-designed 'high tech' site.

Under application reference 2007/1743 planning permission was granted on the site for a mix of B1 and non B1 uses. The non B1 uses included a retail warehouse with an additional garden centre area which had a retail floor space of 2144 m² with 140 m² of offices, two car showrooms a pub/restaurant and residential development. In support of that application a report was submitted to look at the possible range of uses that could result in a viable scheme. The report concluded that to develop the site purely for office uses would not result in a viable scheme and as such it was necessary to consider an appropriate level of 'pump priming' to bring the development forward. In the light of this report planning permission was granted for a number of non B1 uses on the site. It should be noted that the approved retail unit was for bulky non food retail, such as a DIY store, and use for bulky non food sales only was controlled by condition.

The proposal, the subject of this application, includes the provision of three office buildings on the site. The principle of constructing these office buildings would be consistent with Policy E1.2B of the Torbay Local Plan 1995-2011, and is therefore not contentious. Two of these office buildings have previously been granted planning permission under application reference 2008/1682MPA.

The third office block is applied for only in outline, as stated above the principle of the location of an office block in this location is not contentious in relation to the outline nature of the scheme.

The main policy issue to be considered is the principle of the proposed Tesco store in this location and also in provision of an A3/A5 Unit.

The National Planning Policy Framework (NPPF) has at its heart a presumption in favour of sustainable development. This is described as a golden thread that should run through decision making. Sustainable development is defined as meeting three key dimensions, achieving an economic role, a social role and an environmental role.

The economic role is defined as contributing to building a strong, responsive and competitive economy, the social role as supporting strong, vibrant and healthy communities and the environmental role as contributing to protecting and enhancing the natural and built environment. It is advised that these three roles should not be undertaken in isolation, because they are mutually dependent.

Paragraph 22 of the NPPF advises that planning policies "should avoid the long term protection of sites allocated for employment use where there is no prospect of a site being used for that purpose". It continues that "where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard..... to the need for different land uses to support sustainable local communities".

This principle of taking a flexible approach to development on land allocated for employment purposes is consistent with the Council's earlier approach to previous applications on the site where a mix of uses has been approved to provide "pump priming" for the provision of offices on the site. Furthermore, this is consistent with the approach the Council has taken to other employment allocations in Torbay including policy E1.16 at Yannons Farm and E1.19 at White Rock.

The Council therefore clearly supports the principle of considering alternative uses other than employment, in order to deliver viable development that includes a significant quantum of employment space. However, this does not mean that any and all alternative use would be appropriate, as the merits of a scheme must be considered on a case by case basis.

In the case of this proposed out of town centre retail development it is appropriate to consider the NPPF guidance on "ensuring the vitality of town centres". The NPPF advises that Local Planning Authorities should "recognise town centres as the heart of their communities and pursue policies to support their viability and vitality". The most sustainable location for a large retail development is in the town centre because it would encourage economic activity in the town centre and thereby increase its attractiveness through investment and commitment to improving shopping provision.

For an application of this size it is necessary for a sequential test to be carried out that assesses the suitability of sites within the town centre and then edge of centre locations for the proposed use, and only if suitable sites cannot be provided in a town centre, district, local centre or edge of centre location should an out of centre site be considered. A retail impact assessment is also required to consider the impact of the proposal on the vitality and viability of existing centres, up to five years from the time the application is made.

The relevant policies in the Torbay Local Plan 1995-2011 to the principle of locating the Tesco store on this site include Policy E1.2B, which is discussed above and seeks to restrict the use of the land to B1 and B8 uses and Policy E6.

Policy E6 relates to the retention of employment land. It identifies a number of criteria for considering the change of use or redevelopment of employment land. This policy seeks to retain land allocated for employment purposes unless there are overriding reasons in the public interest to allow the loss of employment land.

Whilst the applicants contend that the store is required to deliver the residual office accommodation on the site, there is no financial assessment submitted with the application to confirm that this is the case.

The site is serviced and there are existing employment uses who have successfully located and are now operating within it. It is clear that the World and UK economic situation has been tough over recent years and this has affected the delivery of new employment floor space. There are however some signs of renewed growth on the world and UK markets, housing growth figures particularly are improving. In the future the situation is forecast to improve which will improve the viability of this and other schemes. Furthermore, the site has an advantageous location at the gateway to Torquay and is already seen as a high quality location for business to invest.

The forthcoming South Devon Link Road also provides substantial opportunity for investment in business uses on this site as a high quality location for a range of business uses, equally this will increase the appeal of the other consented use on the site, which the Council already took a proactive stance in allowing to support the provision of business use on the site. The TDA have also advised that they are willing to work with the landowners to help deliver their existing consent and explore and seek other funding and grant opportunities to overcome viability issues.

In determining the previous application Advice from Torbay Development Agency revealed over the 2012-2013 period there had been around 150 property enquiries for around 1.2M sq ft of space in Torbay. The Council does not believe that the case has been fully made that the site cannot be delivered for further employment purposes, in accordance with the Local Plan.

These issues are a significant consideration when determining whether the provision of a major food retail store is the right approach to delivering employment provision on the site.

Retail – Sequential Test

Policy SS sets out the overall shopping strategy for Torbay. It seeks the provision of a comprehensive range of shopping facilities throughout the Bay. The town centres are identified as the main focal points.

Policy S6 is relevant to retail development outside town and district centres. This policy supports a sequential approach to site selection, identifies the importance of not having a detrimental impact on the vitality and viability of existing shopping centres, requires the site to be accessible by public transport and where the site is allocated for employment use it should have no significant adverse affect on employment opportunities. The Local Plan's approach to retail provision in the Bay is consistent with the National Planning Policy Framework.

The submitted sequential site assessment report argues that in order to enhance consumer choice and bring strong competition to the convenience sector of the market, which is currently dominated by Sainsbury's at the Willows, the size of the store needs to be at least that which is applied for.

The sequential site assessment is therefore based on the need to provide a minimum site area of 1.87 ha. Only 1 site is considered in Torbay, the Torquay Town Hall Car Park on Lymington Road.

It is considered that other Town Centre sites in Torquay and Paignton could have the potential for main food shopping to be provided. The previous refusal reason 2 identified that, '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. The Council believes there are opportunities within Torquay and Paignton town centres which can meet the same needs of retail elements of the proposed development'.

The only in centre or edge of enter site considered is the Town Hall Car park, the conclusions on the

site are also not accepted. While the applicant has attempted to demonstrate flexibility, it is concluded that insufficient flexibility has been demonstrated in relation to the size of the store. A minimum site area of 1.87 ha and a minimum store size of at least that proposed in the application is identified as required in the supporting RIA. This was previously argued during the last application. However, this application alters the internal composition of the store with the comparison element reduced by 580m² and the convenience increased by 580m². This clearly shows that there is a greater flexibility in the store size than put forward by the applicant as the convenience element could be reduced by at least 580m² to that proposed by the previous application. The Council is not convinced that the case has been made for the convenience element to be increased to compensate for the 580m² reduction in comparison goods floorspace.

In addition, it has not been demonstrated that the café is essential. There are a range of supermarkets which trade without this facility and further flexibility in this regard would assist with finding a suitable site in or on the edge of an existing centre. Further evidence of consideration of store layout, back of house provision and delivery areas has also not been forthcoming.

In conclusion it is considered that there has been insufficient flexibility shown in relation to the amount, use and configuration of the proposed floorspace in this case.

The proposed store would be the second largest supermarket in the Bay after Sainsbury's at the Willows, currently there are a wide range of smaller stores successfully operating in the Bay. Notwithstanding the internal make up of the store, no detailed consideration of a smaller format store has been provided. A smaller, but nonetheless sizeable weekly shopping store would provide competition and the Council is not convinced that such a store would be unviable. If it is accepted that a smaller sized store would be viable then the Lymington Road site could provide an alternative location.

Given the issues identified above in relation to flexibility, the RIA fails to properly consider the Lymington Road car park site at the rear of the Town Hall as a potential town centre superstore site. The Council considers the Lymington Road site is deliverable in the next 5 years for food retail purposes.

In the event that the sequential test is achieved in this case, a spatial retail strategy based on gap area analysis determines that the application site would not be spatially preferable in any event. Since the authority has previously refused development on this site for these reasons and given the availability of more sequentially preferable sites, it can only be concluded that the scheme fails the sequential test. The Council does not believe that the developer has adequately considered the availability, viability, and deliverability of sequentially preferable sites.

Retail Impact - Analysis

Further advice in relation to the retail impact assessment has been sought from GVA Grimley (Planning Consultants), as they provided advice in this respect in relation to the previous application. This advice has not been received at the time of compiling this report and will be made available in the late representations. The advice will assist Members in considering the likely impact of the proposed store on existing retail centres.

For information, the conclusions reached in relation to the previous scheme were that: i) the development would be likely to have a detrimental impact on the potential for investment in existing centres, ii) that the likely impact of the store on Torquay Town Centre and other Local Centres was understated and iii) that there would likely be a compounding impact on existing centres given the agglomeration of larger stores in the Willows and Edginswell area.

Retail Impact – Policy

The Council has adopted guidance on retail policy in the document "Future Retail Development in Torbay - Clarification of Policy" January 2010, which is material to the determination of this application. Providing background information on retail matters is the "Retail Study Update" (September 2011). These documents acknowledge that a thriving retail sector is critical to the economic prosperity of Torbay. Retail has a vital role to play in Torbay, ensuring that people can meet their shopping needs locally as well as acting as a crucial part of the Bay's economy and attraction as a leisure and tourist destination.

In the "Future Retail Development in Torbay" it is recognised that there will be a need for additional convenience and comparison goods floorspace in Torquay. In order to deliver this floorspace a strategy of providing new convenience floorspace alongside town centre provision in identified gap areas through increasing floorspace in existing local centres or as part of new local centres in mixed use schemes such as White Rock Paignton is proposed. The idea behind encouraging new retail development into gap areas is to improve the spatial distribution of retail facilities and to improve accessibility for all residents. The gap areas are identified on the basis of accessibility to shopping facilities. The proposed Tesco store would not be consistent with this gap area strategy because it would result in additional provision in an area not identified as having a retail need and where substantial provision for weekly food shopping (in the form of the Sainsburys and Asda) already exists.

The Torbay Retail Study update, which is part of the evidence base to support the emerging new Local Plan, identifies that vacancies in Torquay town centre are well above the national average. It suggests that there is a need to try and rebalance provision back towards the town centres. However, in respect of convenience goods it is concluded that a balanced scenario where the traditional town centre first approach is blended with the need to meet location specific needs through the gap areas across Torquay is the most appropriate approach. With regard to comparison goods it is proposed that the majority of additional need should be accommodated within Torquay town centre, however it is recognised that an out of centre retail warehouse location could potentially be acceptable, subject to its impact and a variety of other planning considerations.

The key point is that if the proposed additional retail floorspace was provided in a town centre location it would provide considerable additional investment in the town centre and demonstrate a commitment to regeneration of the town centre. This scheme threatens the ability of the town centre to attract the vital investment it clearly needs.

Design and External Appearance -

Policies BES and BE1 in the Torbay Local Plan 1995-2011 promote positive enhancement of the built environment and require new development to conserve or enhance the built environment, ensuring that the integrity of local character and distinctiveness is protected. The NPPF promotes good design and identifies that "good design is a key aspect of sustainable development". It is recognised that "securing high quality and inclusive design goes beyond aesthetic considerations" and "should address connections between people and places and the integration of new development into the natural, built and historic environment".

This site is important in design terms as it is a gateway site and would be the beginning of the built up area of Torquay on the main approach road into the town. The principle industry in Torquay is tourism and it is vitally important that the first arrival point at this tourist destination has a positive visual impact. It is noted that the new South Devon link road will join the existing road network directly opposite this site, resulting in the site being clearly visible from the new road.

The existing ground levels on the site are beneficial to development because the ground levels are lower than surrounding levels on Hamelin Way and Riviera Way. This is beneficial because it reduces the visual impact buildings on the site through reducing their height. The layout allows a landscaped buffer around the majority of the building, although this would only be 6 metres wide along the south

western boundary. The current character of the site is landscape dominated as it is located adjacent to open countryside and has mature landscape planting around the perimeter. It is important that these wooded banks are retained to assimilate any new development into the existing landscape and soften the visual impact of new buildings.

A principle concern is the size location and external detailing and appearance of the proposed Tesco store. There was significant concern in relation to the previous scheme's design and this related to the following; a flat roof with a number of 'windcatchers,' predominantly finished in timber and curtain wall glazing, and that the external appearance would have little relationship with the recently constructed office buildings on the site, which have distinctive design elements of red/orange coloured mono pitch roofs with white rendered elements.

Similarly there appeared to be no reference in the previous design to the distinctive form of predominantly Victorian development in Torquay, the local materials palette or Torquay's setting and role as a prime marine tourist destination.

The external design of the store has been revised in this latest submission, the previous approach of principally timber larch Panelling with extensive glazing and with limited rendering has been amended with a revised design. This takes inspiration from the existing office buildings on site with a more extensive rendered appearance with the windows framed in grey render boxes. There is also the introduction of white composite panelling, Larch panelling is still however a key part of the external appearance. The building section identified as MOE (Means of Escape) have also been changed introducing glazed features rather than rendered ones previously seen.

The wind catcher ventilation systems from the roof have also been removed and a new larch parapet has been added to the building, replacing the slight dual pitch roof finish. New Juliet balcony's have been added to the Northwest corner and the Lift Core is now clad in Larch Panelling rather than render.

While the design has changed and attempted to take reference from the design of the office buildings, it is difficult to understand how this design would make a positive contribution to local distinctiveness as required in the Council's 'Urban Design Guide'.

Good design practice would expect new buildings to respond to their setting and location, to use local materials, building methods and details to enhance local distinctiveness. It is important on this gateway site that a distinctive high quality building is delivered that positively identifies the arrival point in Torquay. The appearance of the proposed Tesco store is bland and utilitarian, and lacks reference to its location in Torquay.

A fundamental of good design is that development should relate to its location. This development fails on this fundamentally. The development's main entrance is located at the rear of the site and the vaulted atrium faces out towards the edge of the built environment. Views from the new link road will look down on to this elevation, it is noted that the landscaping and topography will partially obscure this elevation, however, it will still be prominent in entering Torquay (there would otherwise be no reason for the developer to have the building facing the South Devon Link Road). The elevation offers little quality or local distinctiveness and instead presents a bland elevation of glazing and Larch Panelling, which is compounded by the large parapet. The scheme fails to provide a high quality arrival point to Torquay.

The location of the entrance atrium in the proposed location effectively turns its back on the business park. When the wider business park is viewed from the south and east the office buildings will be set in the context of this building, not the landscape setting. The building presents its rear and raised service yard, rather than relating its entrance to the business park. The south east elevation is clad in

metal composite panelling and on the North West elevation almost half the elevation is clad in the metal panelling and Larch panelling presenting extensive blank elevations to the office development.

This approach and design fail to deliver the policy aspirations of a high quality of design for the park as the new store would be detrimental to the setting of the business park and provide a poor quality relationship to the other buildings on site.

The store itself, through provision of undercroft car parking, compounds the visual appearance further. The building does not appear grounded and instead appears to float unrelated to the space beneath it. The Store reads very much as a large box with little vertical sub-division to help break down its mass, this is most evident on the South East Elevation. Many historic buildings in Torbay provide 'golden sections' in their appearance which helps develop a sense of place and help the buildings become a part of the surrounding context.

In this case the proposed Tesco store fails to make a positive contribution to the appearance, character and quality of the area and as such would be contrary to Policies E1.2(B), BES and BE1 in the Torbay Local Plan 1995-2011.

Planning permission has previously been granted for office buildings 05 and 06. The submitted plans show that building 05 would be dug deeper into the site than previously approved. The siting has moved to the north and the site plan shows the building projecting onto the pavement. In the previous application these matters were identified as needing to be resolved by the architect before planning permission could be granted. The design principle of a curved steel roof remains consistent. The ground levels to the east of the site are higher than on the site and therefore the increase in the height of the proposed building would not be harmful to the amenity of the area. As the principle of this form of design has previously been accepted there is no particular issue with the external appearance of the building.

Submitted in outline is a proposal for a three storey office building close to the entrance to the site. Only a site plan has been provided as well as detailed elevation however the key issues to be considered at this stage are the principle of siting an office building in this location. In addition to the principle of the location of the office building the other considerations are the layout and access as all other matters are reserved. In relation to the access the proposed access location is considered appropriate. In relation to the buildings layout, while the building is separated from the other existing office building this is not considered a concern, the building follows the establish patten of building running north-south. Equally its relationship to the access and car parking is appropriate and it would appear that the front of the building would be presented to the entrance into the business park as such it is concluded that this element of the scheme is acceptable in policy terms.

This scheme also includes in outline the provision of an A3/A5 250 m2 unit in outline. Visually this building will sit at the entrance to the site, and when turning off of Riviera Way it will become the principle arrival point into the park. While permission is sought in outline the principle of the scheme must be considered, it is noted that images have been submitted identifying Costa Coffee as the user however it is the principle of the A3/A5 use that must be considered. Any number of occupiers could, if approved occupy the units this could include, for example fast-food restaurants. In securing a high quality development as required by policy E1.2 (B) and considering the high profile of the site, the inclusion of a A3/A5 unit with a drive through cannot be seen to fulfil these policy requirements, its visual impact in addition to the Retail store behind would significantly detract from the Business park setting and would instead read as a retail/ leisure park to the detriment of the Business park and contrary to the policy objectives of E1.2(B)

Highways -

The application includes a number of improvements to the highway network, particularly widening of

Newton Road up to the junction with Riviera Way, a new roundabout junction at Orchard Way/Edginswell Lane and a bus turnaround and lay-by including a bus shelter within the site.

A transport assessment has been submitted in support of the application. Officers do not agree with the data used by the applicant to project trip generation levels and is concerned that the projected trip generation significantly underestimates the level of trips likely to be generated on the local network. Officers take the view that the results of the traffic assessments appear to underestimate the impact on the junction of Newton Road and Riviera Way.

As submitted the Transport Assessment (TA) indicates that key junctions on the strategic road network including Scotts Bridge, Lowes Bridgewill will be significantly over capacity, as will Orchard Way / Newton Road. The implication of this is that the proposed store will hinder the free flow of traffic in the surrounding area at a key arrival and access point for Torbay. The impacts of the store on the free flow of traffic will also create significant concern that it will disrupted the accessibility of the hospital and importantly emergency vehicles entering and exiting the Hospital will be restricted. Newton Road is one of the main routes to the hospital for emergency vehicles and therefore needs to be kept free of congestion. The implication of the increased traffic generation is detrimental to the function of the Hospital and the service it provides.

Furthermore the impacts of the store, its visitor and deliveries will impact the accessibility of the wider business park, with potential for the access route to stack with vehicles. This will further impact on the function and desirability of the Business park as a high quality office environment.

Other shortcomings in the Transport Assessment including: the under counting of new trips generated on to the network, the omission of Shiphay junction from the modelling, the use of retail floor area (RFA) as opposed to gross floor area for calculating trips, and the lack of information on how service access will operate, given traffic volumes proposed.

The proposal would provide 371 parking spaces to serve the Tesco store, of which 20 would be for disabled persons and 18 designated for parent and child use. 71 spaces would be provided to serve the office development of which 8 would be for disabled persons and 46 cycle parking spaces would be provided close to the Tesco store. This level of parking provision is considered to be acceptable to serve the proposed development and in line with policy.

The proposed Sarritor House, and A3/A5 unit submitted in outline, would retain the public footpath into the site which is adopted highway which was proposed to be built over in the previous application. It is a positive aspect that such a route has now been reinstated within the proposed scheme to improve access to the development for pedestrians approaching from the north.

Should planning permission be granted a S106 contribution would be required to mitigate the impact of the proposed development on local infrastructure. It is suggested that this could be spent in part on extending the existing bus route capacity into the site. In addition the Council has aspirations to build a new station at Edginswell to provide local rail links to the hospital and employment areas. This would have the potential to be used by staff and therefore it would be appropriate for a contribution to be made towards this project. In addition a contribution would be used to improve cycle links in the area.

Impact on living condition of neighbours -

The proposed Tesco store would be sited close to the boundary with a number of properties in Edginswell to the south west of the site. There is an approximate 8-10 metre difference in ground levels between these properties and the site of the proposed store. It is proposed to construct a new retaining wall close to the site boundary between the two levels as part of the application. It is noted that the service area which is approximately 30 metres from the nearest dwellings would be raised to

the floor level of the store, which would be nearly 4 metres above the parking level of the store.

In support of the application an acoustic report has been submitted to assess the impact of the proposed development on local residents. The report is based on a worst case scenario of the store operating on a 24 hour basis. The acoustic report notes that there would be acoustic fences around the service yard and access ramp, however this is omitted from the drawing. Because of the difference in ground levels there would be a line of sight from adjacent dwellings to the service area.

Since the previous report, the service area is now proposed to be covered to further reduce the noise levels, Environmental health have recommended that if the application were to be approved the deliveries should be restricted to 7am to 12 am to minimise noise emissions from servicing of the store, particularly in the early morning.

Conditions are also recommended for details of plant such as refrigeration, condenser units, air handling units etc to be submitted in order to control noise output and to agree noise amelioration measures and management during construction. The report concludes the following a) that the changes in traffic noise would be "imperceptible and therefore of negligible impact", b) there would not be a noticeable detrimental effect on the noise climate during the day and c) at night time during the peak hour of activity the guidelines would be exceeded by up to 4 dB at the nearest property, however, this would be below existing peaks for noise at night and would not exceed the existing peak or ambient noise climate from 0600 hours.

Local residents have also expressed concern about the dot com vans having to run their refrigeration units for an hour at the beginning of the day.

Trees and Landscape -

A Landscape and Visual Assessment has been submitted in support of the application. In addition a document with further long distance views across the site has been submitted. The Landscape and Visual Assessment notes that the vegetation on the site is predominantly rough grassland and scrub. There is a small copse of tree planting in the western corner of the site. Similar clusters of small groups of trees are located on the north eastern boundary, associated with the watercourse that runs parallel between the northern site boundary and the railway. There is an attenuation pond in the centre of the site that connects to the watercourse via a ditch running in a northerly direction. This pond forms part of the SUDs scheme associated with the existing business park.

Within the Landscape Character Assessment of Torbay, May 2010, the site is identified as located within the Landscape Character Type 3B: Secluded Valley. The assessment identifies that this area is characterised by steep valley landforms with narrow valley floors. This forms a secluded character due to the enclosing topography and complex network of narrow sunken lanes enclosed by high hedge banks which contain views across fields and out to the surrounding landscape. The area is identified as being settled with the buildings and settlements displaying a variety of sizes, ages and styles.

The Landscape and Visual Assessment identifies the site as being characterised by a number of urbanising elements, which create an urban fringe nature. These are said to consist of the road and railway corridors to the north and west which form robust, defensible edges to the site and create a degree of separation from the wider rural setting. The existing commercial buildings on the site are also said to provide a larger scale, contemporary built form, being located within the immediate setting of the application site. The existing built edge to the east and south, which is located on the rising landform of the valley is said to ensure that the presence of surrounding built form characterises the site.

It is argued in the Landscape and Visual Assessment that the site's topography and its situation within

the lower region of the valley, surrounded by three ridgelines, reinforces the degree of localised visual containment. The combination of the localised vegetation and topography compartmentalises the site from the wider landscape. It is concluded that the visual environment within which the site is set has the capacity to accommodate a degree of change, which would have a limited effect on the localised and wider visual environment.

Detailed planting plans are submitted as part of the application and details of groups of trees that would be felled along with indicative indications of tree protection fencing. The landscape treatment proposed includes:

- Retention of the existing treescape along the south western boundary
- Retention of other existing trees located close to boundary lines, and their reinforcement by additional native tree planting that will be under planted with native shrubs
- Planting of trees and ornamental shrubs to the frontage of the Tesco store and associated car park
- Creation of an area of wildflower meadow to the east of the car park
- Planting of native wetland tolerant tree species and marginal planting surrounding the pond and ditch.

The Arboricultural Officer has identified that a scheme would be suitable for approval on arboricultural merit if the following points could be addressed:

- The relationship between the retaining wall and G2 being acceptable.
- Any approval should take account of the inclusion of the site within the wider landscape and wildlife requirements to achieve a net gain in benefits conferred. The scale of the proposed store will preclude great enhancements if approved as is, so wider improvements should be sought in terms of management, improving and creation of wildlife corridors and areas, aesthetic tree planting and buffer planting improvement (Hamelin Way/ Riviera Way).
- Detailed landscaping plan to be prepared that includes strategically planted trees within engineered surfaces if natural soil profiles are not available supported by cellular rooting systems to allow sustainable root and tree growth.
- Any approval should ensure that conditions are attached requiring installation of protective fencing prior to any commencement including land clearance and earthworks.

As such it is concluded that in principle the scheme is suitable on arboricultural merit and were it to be approved the outstanding issues could be conditioned.

A key consideration in landscape terms is the magnitude of change between the consented scheme and the current proposal. The proposed development does seek to integrate into the landscape setting without detriment within the wider receiving environment. However, the scale of the proposed Tesco store is significantly larger than the previously approved buildings on the site, which comprised smaller scale office, retail and car showrooms, with greater space around the buildings. Consequently the impact in views across the site and from long distance views would be to increase the urban character of the site through the increased scale of development that is now proposed. This scale of building would also reduce the scope for a more characteristic urban/rural fringe form of development, such as exists in the business park with buildings set in a strong landscape.

Policy L10 in the Torbay Local Plan 1995-2011 requires necessary mitigation measures to be provided to minimise damage to the landscape and for landscaping measures to form an integral part of the development to reflect the character of the local landscape. As this site is located on the edge of the urban area it is important that a robust strategic landscape scheme is provided to assimilate new development on the site into the distinctive landscape in the area. This scheme should respect the existing landscape character of the site as described above.

It is noted that the site area does not extend to the boundary with Hamelin Way and Riviera Way. Land to the north east of the site to the boundary with Hamelin Way forms an important landscape buffer to the site and is within the Council's ownership. In order to provide a green edge and soften the impact of the proposed development into the landscape it would be appropriate to seek a contribution from the developer for additional strategic planting on this land and for long term maintenance.

Drainage and Flood Risk -

The NPPF advises that "when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere".

A Flood Risk assessment has been submitted in support of the application which indicates how flood risk and disposal of surface water would be managed on the site. The Flood Risk Assessment effectively determines that the site is located in Flood Zone 1 and therefore has a low probability of flooding. The application site consists of undeveloped land and therefore the proposed development will increase the site's impermeable area and will require attenuation to reduce the surface water runoff rate. To achieve sustainable run off rates it is proposed to use a) an attenuation pond to collect and store rainwater and b) an underground Geolight cellular storage system located underneath the car park.

The Environment Agency has advised that the application should be refused unless access to Edginswell stream/Aller Brook is addressed for maintenance purposes, without this there will be potential impact on flooding upstream. This is an important flood defence outflow structure and compromising this could have implications for flood risk. This matter while significant, does have the potential to be overcome by condition were this application approved.

Ecology -

The NPPF requires Local Authorities when determining planning applications to aim to "conserve and enhance biodiversity". An ecological survey has been submitted in support of the application. It is noted that there are no statutory nature conservation designations within or adjacent to the study area. The South Hams Special Area of Conservation (SAC) is located within the vicinity of the site. There are a number of Other Sites of Wildlife Interest (OSWI) identified within and adjacent to the study area. It is concluded in the report that the proposals will not result in any "likely significant effects" on the important features of the SAC and that there is no evidence to suggest that the proposed development would lead to any significant effects on any known protected species or ecological features of value at the national, county or local level.

The Ecological Assessment found the majority of the site to comprise rank grassland, tall herb vegetation, bramble and bare/re-colonising ground, which supported a limited range of common species and was of overall low to negligible ecological value. The following recommendations are made in the report:

- Suitable safeguards to be put in place to protect offsite watercourse and associated corridor
- Construction safeguards and protective fencing installed to prevent damage to retained habitats (particularly the pond, drainage channel and boundary vegetation)
- New landscaping to incorporate enhancement measures using native planting
- Suitable measures to be put in place to eradicate Japanese Knotweed
- New lighting scheme designed to avoid additional light spill into the offsite watercourse corridor and maintain dark corridors for wildlife movement
- Mitigation measures in respect of reptile species (Slow Worm)
- Bird sensitive timing of vegetation clearance
- New bat and bird boxes attached to new buildings and/or retained trees within the study area.

Natural England (NE) has commented on the proposed development and has not raised an objection. Their consultation response advises that the ecological report should take into account the fact that the site lies at the extremity of a wider corridor of land identified as of potential strategic significance as a flyway for great horseshoe bats, associated with the South Hams SAC. NE also recommend that the landscaping associated with the development includes the creation and maintenance of new habitat suitable for commuting and/or foraging greater horseshoe bats e.g. native broadleaved planting that are not affected by artificial illumination at night.

The Ecological Assessment identifies the broad principles needed to ensure that the proposed development would not have an adverse affect on biodiversity. The precise detail of the measures identified in the recommendations above would need to be addressed by means of conditions, for example, e.g. it is suggested that bat and bird boxes be provided but no specification, number or location of these boxes is provided.

Environmental Sustainability -

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development which, it states, should be seen as a golden thread running through both plan making and decision taking. One of the twelve core principles in the NPPF is to "support the transition to a low carbon future in a changing climate".

An Environmental Sustainability Statement is submitted in support of the application. This identifies that Tesco has committed to be on the path to be a low carbon business by 2020 and a zero carbon business by 2050. Tesco have carried out an extensive design and specification review trialling many new technologies. In the proposed store it is proposed that the following measures would be incorporated:

- Enhanced building fabric and energy specific efficient specification
- Drainage strategy that incorporates SUDS
- Potable water minimisation equipment
- Diverting of all store waste from landfill
- Incorporation of materials with a low environmental impact
- Incorporation of public transport and cyclist facilities
- Enhancement of the sites biodiversity value.

It is advised that there is a time lag between the submission of a planning application and commencement on site. Technologies have changed and advanced considerably over recent years and their improvements appear to be ongoing. In accordance with best practice, a technology review would take place prior to commencement on site so that the most appropriate equipment at the time can be utilised. This point is reasonable, however it is disappointing that there is no commitment to achieving a nationally recognised target such as BREEAM in the development. In order to ensure the proposed development incorporates the many sustainable initiatives as identified in the report (or suitable alternatives) it would be appropriate to impose a condition requiring this information to be submitted prior to the commencement of development.

Economy

The NPPF recognises that sustainable development contributes to building a strong, responsive and competitive economy. In the Planning Statement it is advised that the proposed development would create approximately 400 new jobs. This level of employment would evidently make a difference to the economy in Torbay, especially if these jobs were new jobs in the Bay. However the proposal should not be considered on the principle of job creation alone and the broader economic impact on the whole of Torbay, the social impact and the environmental impact are material considerations in the determination of the application.

The issue of the impact of the proposal on the town centre is addressed above and further advice will be contained in GVAs consultants report. The applicant suggests that the proposed Tesco store would result in loss of trade to a number of other stores. It is likely that this loss could result in a reduction of jobs in competitors stores, and therefore the net number of additional jobs created is likely to be less than the figures stated above.

The use of the site by Tesco would reduce the amount of space available for office development. It is noted that a non food retail use and car showrooms have previously been granted planning permission on the site, however, since these previous consents there has been a material change in circumstances in that the South Devon Link Road (SDLR) has been approved and is now being constructed.

The proximity of the application site to the SDLR means that it would be easily accessible and a prominent location which would be likely to increase its attractiveness for office use. The type of jobs that would be created by the retail element of the proposal would be predominantly part time, low paid with limited opportunities for personal development and advancement. In contrast office jobs are likely to require a higher skilled workforce and would provide higher value, which would have an indirect positive effect on the economy of Torbay.

S106/CIL - S106/CIL -

Section 122 of the Community Infrastructure Levy Regulations requires planning obligations to meet the following tests:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

The provisions of these tests would need to be met in respect of any financial contributions sought for the decision to be legal.

In accordance with the SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" a Sustainable Transport contribution would be applicable. In addition, town centre impact mitigation and office development gap funding have been included in the offer from the applicants. The current 106 figure comes to £2mil in accordance with officers discussions with the applicant.

It would only be lawful to request a contribution towards specific costed projects that are necessary to make the development work.

The breakdown of the appropriate contribution and where it should be spent would need to be agreed as part of the legal agreement, were the application to be approved.

Offsite landscape works and maintenance would also form part of the s106 provisions.

Mitigation for the number of jobs that are created by the development has been applied to the above figure.

Conclusions

In conclusion, there is no objection to the principle of the three proposed office buildings on the site. There is however significant concern in relation to the impact of the store in a number of regards, this includes the visual impact as an arrival point to Torbay specifically from the new Link road. In addition, there is concern regarding the design, mass and orientation of the proposed store and the impacts of the store and the A3/A5 unit on the function and appeal of the site as a high quality business park.

With regard to the retail element of the application, the Local Planning Authority does not accept the conclusion of the submitted sequential test. In the opinion of the Local Planning Authority there are suitable sites available within the town centre to deliver the proposed store. The proposed development would fail to ensure the vitality of the town centre and as such would be contrary to the objectives of para 23 of the NPPF.

This revised application has failed to overcome the previous refusal reason of application P/2012/0280.

For these reason the application is recommended for refusal.

Condition(s)/Reason(s)

01. The proposed 7149m² food retail store would be located on land designated for employment use in the Torbay Local Plan 1995-2011 and consequently would result in the loss of 2.45 ha of serviced land that is available and highly suitable for employment use. Retention of the site for employment use accords with paragraph 21 in the NPPF, which seeks to promote investment in business. Accessibility to and prominence of the site in commercial terms will be significantly improved with delivery of the South Devon Link Road and this will increase the likelihood of an employment use being delivered on the site, given its prominent location at the entrance gateway to Torquay. The Authority is not convinced that a store of the proposed size is required to pump prime the remaining employment area. Loss of the site for employment purposes would result in the loss of opportunity to secure economic growth through the creation of jobs and prosperity in a struggling economically deprived area, characterised by seasonal low paid employment and as such would be contrary to Policies E1.2(B) and E6 in the Torbay Local Plan 1995-2011.
02. The submitted Sequential Site Assessment Report has failed to demonstrate that the applicant has complied with the requirements of paragraphs 24 and 27 of the National Planning Policy Framework and Policies SS and S6 of the Torbay Local Plan 1995-2011 in respect of the sequential approach. The applicant has failed to demonstrate that the town centre options have been thoroughly assessed as sequentially preferable alternatives to the application site. 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. The Council believes there are opportunities within Torquay and Paignton town centres which can meet the same needs of retail elements of the proposed development. In the event that the sequential test is achieved in this case, the Council has a retail strategy based on gap area analysis that determines that the application site would not be spatially preferable in any event.
03. 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 planner 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.
04. The orientation and external appearance of the food retail store fails to meet the objectives of Policies EP1.2(B), BES and BE1 in the Torbay Local Plan 1995-2011 and paragraphs 60, 61 and 64 of the NPPF that seek to ensure new development will positively enhance the built environment, ensuring that the integrity of local character and distinctiveness is protected. The

proposed store relates poorly to the business park, the location of the store's entrance fails to relate to the wider site turning its back on it, presenting extensive blank elevations and rear raised service yard to the Business Park. The proposed building lacks reference to the established built form and character of its setting in Torquay in terms of design, materials and quality of landscape provision. As such the development would fail to provide a high standard of development appropriate to the Business Park or that would be fully integrated into the natural, built and historic environment in this very prominent gateway site that has a significant role as the arrival point to a major tourist destination. The bulk and scale of the building proposed would also be prominent in this gateway location and run contrary to the prevailing urban fringe approach that has been taken to the existing development at the business park.

05. The applicant has failed to demonstrate that the traffic generated by the proposed development could be satisfactorily accommodated on the highway network. As such the traffic arising from the proposed development would have a significant adverse impact on highway safety, capacity and free flow of traffic on the surrounding highway network. In addition the applicant has also failed to demonstrate that the proposed mitigation measures would adequately offset the potential increase in demand. The proposal is therefore contrary to Policy T26 in the Torbay Local Plan 1995-2011.
06. The Retail Assessment fails to accurately assess the impact of the proposed retail store on the Torquay town centre and Paignton town centre, district centres and local centres. The proposed development by virtue of the inclusion of the retail store would have an adverse impact on investment in, and the vitality and viability of, Torquay Town Centre which would consequently have a detrimental effect on trade/turnover in the town centre, contrary to paragraphs 26, 27 of the NPPF and Policies SS and S6 of the Torbay Local Plan 1995-2011. The applicant has failed to prove that material considerations exist that warrant approval of the application proposals contrary to these policies. Furthermore, the development would have a detrimental impact on other existing Town, local and district centres and the Council does not consider that the evidence submitted in relation to the retail impact assessment is robust.
07. Refusal reason to be drafted regarding lack of information drainage/flooding

Relevant Policies

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