



Friday, 1 November 2013

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 11 November 2013

commencing at **2.00 pm**

The meeting will be held in the Burdett 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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www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 1 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on 14 October 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/2013/0372/MPA Bishops Court Hotel, Lower Warberry Road, Torquay** (Pages 7 - 16)
Erection of 18 residential units (1x2bed, 8 x3 bed and 9x4 bed) in 2 terraces in garden are to east of Bishops Court Hotel on site of former holiday accommodation.
6. **P/2013/0400/PA Bishops Court Hotel, Lower Warberry Road, Torquay** (Pages 7 - 16)
Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.

7. **P/2013/0401/LB Bishops Court Hotel, Lower Warberry Road, Torquay** (Pages 7 – 16)
Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
8. **P/2013/0891/PA Bishops Court Hotel, Lower Warberry Road, Torquay** (Pages 7 – 16)
Demolition of existing holiday units to the rear of Bishops Court Hotel and replacement with 6 new residential dwellings.
9. **P/2013/0136 Junction Of Kings Ash Road And Spruce Way, Paignton** (Pages 17 - 24)
Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge.
10. **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.
11. **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, 6 November 2013. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Development Management Committee

14 October 2013

-: Present :-

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

(Also in attendance: Councillors James and Stringer)

53. Apologies for absence

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

54. Minutes

The Minutes of the meeting of the Development Management Committee held on 9 September 2013 were confirmed as a correct record and signed by the Chairman.

55. Urgent Items

The Committee considered the items in Minute 68, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

56. P/2013/0662/PA Unit 4, Metherell Avenue Industrial Estate, Brixham

The Committee considered an application for a change of use from B1 to B2.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Sandra Tribble and Ian Browse had a total of five minutes to address the Committee against the application and Roger Richards addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor James addressed the Committee

Resolved:

- i) refused for the reasons set out in the submitted report; and

- ii) a Notice of Enforcement be issued within 3 months of the date of the Committee.

57. P/2013/0900/HA 1 Milton Park, Brixham

The Committee considered an application for demolition of existing garage and formation of new bathroom, en suite and walk in wardrobe, new enlarged porch with new pedestrian access to Milton Street.

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

Resolved:

Approved.

58. P/2013/0758/MPA Land Adj To Park Bay & Holly Gruit, Brixham Road, Paignton

The Committee considered an application for the development of 14 dwellings comprising 13 houses and one flat over a garage (FOG), with associated roads, garages and parking.

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:

- i) the resolution of conditions being delegated to the Executive Head of Spatial Planning; and
- ii) the signing of a Section 106 Legal Agreement within 13 weeks of the valid application being submitted, or the application be refused.

59. P/2013/1009/RM Land Adjacent to Torbay Business Park, Whiterock, Long Road, Paignton

The Committee considered an application for reserved matters application for P/2011/0197 including, appearance, landscaping, layout and scale of two industrial units, enabling work for a new road, demolition of unit 31, relocation of 10 parking spaces for units 33-34.

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

Resolved:

Approved with the conditions set out in the submitted report.

60. P/2013/0645/PA Land Adjoining 16,17 & 18, Hyfield Gardens, Torquay

The Committee considered an application for an extension of time limit of previously approved application P/2010/0278 – formation of dwelling and 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 Sharon Morris addressed the Committee against the application.

Resolved:

Subject to the signing of a Section 106 Legal Agreement within 3 months of the date of the committee, approved with the conditions set out in the submitted report.

61. P/2013/0690/PA 4 Old Mill Road, Torquay

The Committee considered an application for a change of use from A1 to A3/5.

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

Resolved:

Approved with the conditions set out in the submitted report.

62. P/2013/0698/MPA Snooty Fox, 89 - 91 Fore Street, St Marychurch, Torquay

The Committee considered an application for the erection of a four storey block of flats containing fourteen one bed flats and thirteen two bed flats and associated parking, following demolition of existing buildings.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Frederick James addressed the Committee against the application.

Resolved:

Refused on the grounds of the:

- i) impact of the development on the amenity of existing neighbouring properties;
- ii) overdevelopment of the site, particularly in relation to restricted parking and resulting in restricted amenity space for future residents; and
- iii) the lack of a Section 106 Legal Agreement.

63. P/2013/0749/PA Unit 1, Lummaton Quarry, Happaway Road, Torquay

The Committee considered an application for a change of use from (B8)(Storage and Distribution) SEC to a skip firm and waste transfer station (SUI Generis).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Tim Holloway and Ian Franks had a total of five minutes to address the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Stringer addressed the Committee.

Resolved:

Approved:

- i) subject to the detailed wording of conditions to control the nature, hours and operation of the use being delegated to the Executive Head of Spatial Planning in consultation with the Environment Agency; and
- ii) the permission is for the applicant only and the use cannot be operated by any other person.

64. P/2013/0775/S106 The Corbyn Apartments, Torbay Road, Torquay

The Committee considered an application for modification of Section 106 ref: P/1991/0370 to allow eight apartments to be occupied on a permanent residential basis and the remaining nine apartments to be used for holiday letting except during the winter months when they could be used for short term letting.

At the meeting John Eaton addressed the Committee in support of the application.

Resolved:

That the proposed modification to the Section 106 Legal Agreement be approved, providing there aren't any representations received within the 21 day period following re-advertisement of the proposal, this period ends on 24 October 2013. That the Section 106 Legal Agreement be signed and completed within six months of the date of this committee.

65. P/2013/0853/MPA Meadfoot Beach, Meadfoot Sea Road, Torquay

The Committee considered an application for demolition of existing beach huts and provision of 133 new huts.

Prior to the meeting, Members of the Development Management Committee undertook a site visit. Members requested officers to ascertain whether the new huts would be appropriate for overnight stays, have water and electricity supplies and whether the proposals included a slipway to the beach for disabled people.

Resolved:

Approved, with detailed conditions being delegated to the Executive Head of Spatial Planning.

66. P/2013/0876/MPA 52/54 Belgrave Road, Torquay

The Committee considered an application for a change of use from a hotel to eight holiday apartments and two residential units.

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

Resolved:

Approved subject to:

- i) the improvements to the boundary treatment and revised signage of the building;
- ii) a Section 106 Legal Agreement to achieve planning contributions, a holiday use monitoring contribution and clauses pertaining to holiday occupancy and sole ownership of the holiday flats. That the Section 106 Legal Agreement be signed and completed by 21 November 2013 or the application be refused; and
- iii) conditions set out in the submitted report.

67. P/2013/0979/PA Pine Lodge, Sladnor Park Road, Torquay

The Committee considered an application for provision of a dwelling on adjacent land.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Richard Maddock addressed the Committee in support of the application.

Resolved:

Refused for the reasons set out in the submitted report and concern regarding visibility when accessing the highway.

68. P/2011/0062/PA Daleside Court, Lincombe Drive, Torquay

Members considered a request for an extension of time to issue planning consent. Members were advised that there were issues regarding land ownership which had delayed the completion of a Section 106 Legal Agreement. Members were informed that the Section 106 Legal Agreement had now been signed.

Resolved:

Approved.

69. Spatial Planning Performance Report Quarter 2

Members noted a report that set out the performance of the Spatial Planning Team. Members were pleased to hear that 83% (5 out of 6) of Major Planning Applications, in quarter two, were determined within 13 weeks. Members further noted that in quarter two 25 out 28 decisions made were in accordance with officer recommendation.

Members were advised that from 1 October 2013 there was no longer a need for separate conservation area consent, such consent would form part of a planning consent.

Chairman/woman

Agenda Item 5

Application Numbers

P/2013/0372/MPA
P/2013/0400/PA
P/2013/0401/LB
P/2013/0891/PA

Site Address

Bishops Court Hotel
Lower Warberry Road
Torquay
Devon
TQ1 1QS

Case Officer

Mrs Ruth Robinson

Ward

Wellswood

Description

- P/2013/0372 Erection of 18 residential units (1x2 bed, 8 x3 bed and 9x4 bed) in 2 terraces in garden are to east of Bishops Court Hotel on site of former holiday accommodation.
- P/2013/0400 Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
- P/2013/0401 Amendments to a previous planning approval for alterations and conversion of an existing grade II listed hotel into seven apartments.
- P/2013/0891 Demolition of existing holiday units to the rear of Bishops Court Hotel and replacement with 6 new residential dwellings.

Executive Summary/Key Outcomes

Planning permission and listed building consent were originally granted in 2009 for the redevelopment of the above site, a former hotel set in extensive grounds (P/2008/1623/MPA and P/2008/1624/LB).

The scheme proposed 42 residential units, 8 within the listed former hotel and the rest from redevelopment of the blocks of holiday accommodation in the grounds. The scheme included a spa, pool and a range of health and leisure facilities. The ambition was that the facilities would encourage use of the site in a more holiday centred way than a straight residential scheme would thus mitigating for the loss of the hotel.

The scheme was subject to an IVA and this confirmed that it would make a profit of 5.4% GDV. The applicant at the time agreed to contribute half of this (£336,500) as an Affordable Housing contribution.

The S106 also included deferred contributions in the event of the scheme being more profitable than anticipated, to a maximum of £1.24 million. Community Infrastructure contributions of £63,000 were secured in relation to waste, stronger communities, lifelong learning and green space. Sustainable transport contributions were mitigated due to the existing use of the site for hotel and holiday accommodation. This resulted in a total level of contribution of £399,500.

A Certificate of Lawful Development ((P/2012/1001/CE) was subsequently granted confirming a material start on site. This keeps the consent alive in perpetuity.

A revised scheme has now been submitted. This proposes 34 dwellings, 7 within the former hotel and the rest from redevelopment of the holiday accommodation in the grounds (3 of which to the back of the Villa are relying on the previous consent as they remain unaltered). The spa/treatment facilities have also been much reduced and are now only contained within the basement of the Villa.

The scheme is acceptable in terms of design, functional aspects and delivery. It will deliver fewer but larger units than previously agreed. There are improvements in design particularly in relation to

the listed building, its setting and there will be assured implementation of the works. It achieves resolution of a site that has become neglected. It will create a quality residential scheme that will add to range of the housing stock available in the area.

34 dwellings will be provided on a brownfield site and this will make a significant contribution to the Council's 5 year housing land supply.

An IVA has been submitted due to concerns about viability in relation to Affordable Housing and Community Infrastructure Contributions. This identifies a greater profit margin than demonstrated in connection with the previous scheme (5.4%-8.56% GDV). However, the Gross Development Value still falls well below expected margins to finance a development such as this.

The current offer from the applicant is for a contribution of £68,000 either towards sustainable development contributions or affordable housing. If this were used toward sustainable development matters other than AH, then the £68,000 would represent 'full' contributions in relation to waste, stronger communities lifelong learning and 75% of the greenspace contribution. The sustainable transport contribution is mitigated due to the existing use of the site as was agreed previously.

The benefits arising from the current scheme are that it will result in a reduced number of larger units and the design is in some respects an improvement, particularly in relation the listed building and the blocks that immediately abut it.

The remaining concern, given acceptance of the principle, design, level of parking etc, is the lack of an Affordable Housing contribution.

Negotiations are ongoing in order to see if some additional profit can be derived from the site which would help meet this deficit. Progress will be reported verbally.

Recommendation

Site Visit; Conditional Approval; subject to:

- a) Delivery of an acceptable level of affordable housing contribution
- b) Conclusion of a S106 agreement to secure agreed affordable housing contribution and a level of deferred contributions; any agreed community infrastructure contributions; tying of the various applications together to form an agreed phasing programme and; mechanism to deliver implementation of the schedule of works to restore the listed villa and replace the adjacent mews building.
- c) Conditions as itemised at the end of the report.

Subject to the decision made on application reference P/2013/0372 the decisions on the remainder of the applications could take one of the following routes:

1. In the event that the first application (P/2013/0372) is approved, the remainder are to be considered on their merits and if approved they can then be related through 106 to the principle decision. In the event of approval of P/2013/0372, the decision would need to include a Grampian style condition or 106 clause to prevent implementation without a valid consent and associated delivery for the works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891)
2. In the event that the first application (P/2013/0372) is refused, the remainder are again to be considered on their merits. However, given the clear connection between the applications they should either also be refused (on the grounds of piecemeal delivery and/or lack of 106) or if approved, there should be appropriate 106 mechanisms put in place. These mechanisms should ensure that the permissions for works to, and adjacent

to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891) are not implemented in part / in isolation so as to result in a part completed scheme. In addition, if they are approved notwithstanding the refusal of P/2013/0372, then a s106 must ensure that they remain as part of the wider site in terms of 106 obligations on commuted sums and affordable housing.

Statutory Determination Period

There are 4 applications under consideration. The 'major' part of the development P/2013/0372 has passed the 13 week deadline and agreement to a determination after the deadline will be obtained from the applicant.

Site Details

Bishops Court, a former hotel and Grade II listed building stands in a spacious plot with a vehicular access from Lower Warberry Road. It was formerly known as 'Normount' and was built in 1844.

The villa has been subject to a number of alterations and extensions over the years in order to provide additional holiday accommodation in the hotels heyday, which did compromise its architectural integrity.

The site is bound to the north by Middle Warberry Road, to the east by The Warberries Nursing Home and to the west by a block of flats known as 'Sorrento'. The site slopes down from the north to the south. The main villa is grade II listed, as is the neighbouring nursing home; the pavilion at the east of the site is also separately grade II listed as is the entrance gate and piers.

The major part of the garden to the villa, which lies to the east of the site, was previously occupied by two additional terraces of holiday accommodation running east-west across the site and built into the slope. The lower terrace has been partly demolished in recent years. This part of the site is very prominent in views across the valley.

The site is within the Warberries Conservation Area. The Conservation Area Appraisal identifies the main villa as an important building with an unspoilt frontage. The view south from the rear of the villa is identified as important within the conservation area and the front boundary walls are shown as prominent walls. The site is covered by a Tree Preservation Order (1973.12).

Detailed Proposals

There are 4 applications under consideration:

P/2013/0372/MPA: This provides for the demolition of the existing holiday accommodation in the garden area and its replacement by a lower terrace of 9, 3 storey, 3 bed dwellings and a rear terrace of 9, three storey, 4 bed dwellings. Each of the terraces has integral garages and visitor spaces.

P/2013/0400/PA: This comprises amendments to the approved scheme for conversion of the main villa to flats and reduces the number of units from 8 to 7. The ground floor apartments comprise 2 large 3 bed units to avoid undue impact on the existing layout. Of the remaining units, 4 are 2 bed units and 1 is 1 bed. The changes relate principally to the layout and alterations to the rear elevation.

P.2013/0401/LB: Is the listed building application in connection with the above planning application.

P/2013/0891: This relates to the redevelopment of a block of holiday accommodation to the rear of the villa to provide 6 new dwellings (2x 1 bed 3 x 2 bed and 1 x 3 bed)

Summary Of Consultation Responses

English Heritage: Consider that the lower terrace of the garden new build is unduly dominant due to the inclusion of a third storey of accommodation.

Highways: Have no objection based on the previous use of the site as a hotel but would favour widening of the access to Lower Warberry Road.

Arboriculturalist: Considers there is the possibility of harm arising to trees on the eastern boundary of the site from continuing demolition of the lower terrace of holiday accommodation and requests a Method Statement to be submitted to detail how the works will be carried out to minimise possible impacts.

Summary Of Representations

None received.

Relevant Planning History

There is a long history of applications (over 40 in the 1980's – 90's) for various proposals including alterations to entrances, windows, fire exits, additional leisure facilities, outbuildings, dwellings in grounds, additional extensions, bedrooms in roof space, additional parking areas.

Following extensive negotiations, planning permission and listed building consent were granted in June 2009 for the conversion of the former hotel to provide for 8 flats and the construction of 34 flats/dwellings in the grounds to replace the existing terraces of holiday accommodation (P/2008/1623/PA and P/2008/1624/LB)

Subsequently a Certificate of Lawfulness (CLEUD) under reference P/2012/1001 was granted, for the erection of four dwelling houses on the site. This confirms that a material start was made in relation to P/2008/1623 and P/2013/1624 thus preserving the permissions referred to above.

Key Issues/Material Considerations

Background

The former Bishops Court Hotel was one of the larger and more successful of Torbay's hotels outside the defined PHAA's and as such, careful thought was essential in considering a move to residential use. In 2008 this was a key consideration and it was concluded that the existing business had struggled for some considerable time. Furthermore, the amount of investment needed to restore the listed building was unlikely to be generated through a continuation of the hotel use.

There were opportunities to enhance the setting of the listed building and the wider conservation area that would only come about if a residential scheme were allowed and there would be consequent benefits in terms of Affordable Housing and associated community infrastructure contributions.

The 2008 approval included, in addition to 42 residential dwellings, the provision of a health spa, pool and beauty and treatment rooms and it was argued that this would encourage letting for holiday purposes which would to some degree mitigate for the loss of the hotel.

A viability report (IVA) was submitted with the application and this confirmed that the scheme would make a profit equating to 5.4% of GDV (approx £673,000) and the applicant at that time agreed to contribute half of this as an AH contribution. This was significantly less than would be required through strict application of the SPD.

It was agreed to include an 'overage' clause which would recoup AH contributions in the event of the scheme being more profitable than anticipated to a maximum of £1,240,000. The AH manager was at the time satisfied with this, providing that the £63,000 community infrastructure contributions were also allocated towards meeting AH needs. This amounted to a total contribution of £399,500.

The scheme was not carried forward and the site is now in a more dilapidated state than it was in

2008, with demolition on the site part completed and the listed building in need of additional investment.

A revised scheme has now been submitted which reduces the number of units on the site from 42 to 34, there are design changes which are for the most part an improvement, the health spa has been significantly reduced in size and a IVA has been submitted which indicates that the profit now equates to 8.56 GDV. The applicant has indicated that no AH contributions will be made but the community infrastructure contribution has been increased from £63,000 to £68,000.

There are therefore a number of key issues:

1. Use of the site.
2. Design,
3. Viability
4. Impact on trees/functional matters.
5. Phasing and deliverability of key elements of the scheme.

Each will be addressed in turn.

1. Use of the site

The principle of residential use of the site has already been agreed and a CLEUD issued confirming a material start on site, which will keep that application alive in perpetuity.

The 2008 approval included the provision of a large health spa, pool, beauty treatment rooms, snooker/meeting room and library which it was argued would make it attractive to investors who wanted to buy properties to use as holiday lets. It was hoped that this would mitigate for the loss of the tourism offer by creating more of a 'holiday destination' than a straight residential scheme. These facilities have now been significantly scaled back and a small spa and treatment rooms occupy the basement of the villa only. The applicant has confirmed an intention to include a small swimming pool but this is not currently shown on the submitted plans.

However, it is not considered that this can be used to justify a re-evaluation of the principle of residential use in this case. There was no guarantee that it would have had the effect hoped for and there is a CLEUD confirming that the approved residential scheme could be built out.

In addition, since 2008/2009 when the decision was made, the Council has adopted a revised guidance document in relation to PHAA's and holiday uses outside of PHAA's. This provides for a more flexible approach that would again be likely to lead to the acceptance of the principle of residential use in the particular circumstances of this case. As such the principle of residential use is considered acceptable.

2. Design

The scheme has been submitted as 4 separate applications.

The main application is for the 'Garden New Build' P/2013/0372. Sister applications relate to the 'Amendments to the conversion of the villa' (P/2013/0400) and the 'Redevelopment of the mews building to the rear of the villa' (P/2013/0891).

The fourth application P/2013/0401 is the listed building application for the conversion works to the villa.

a) The Garden New Build.

This involves the construction of 2 new terraces, the lower terrace and rear terrace on the line of the former holiday accommodation set within the garden. The lower terrace has now been partly

demolished.

The topography of the site falls from north to south and the intention is for the site to continue to be viewed as a series of subservient terraces in relation to the listed building and for the terraces to be viewed as garden structures 'bedded' in the landscape when seen from across the valley. The buildings are primarily to be stone faced to help this integration with recessive fenestration. This is for the most part successful.

The existing 'lower terrace' is 2 storeys and the 2008 approval was for a terrace of the same height. The new scheme however includes a third 'set back' storey in recessive materials which accommodates a master bedroom. English Heritage have concerns about this, considering it makes the building over dominant in relation to the listed building.

Sections have been submitted which show the relationship of the set back master bedroom storey to the perspective of the listed building and it is considered that the relationship is not unduly dominant.

The lower terrace also encroaches closer to the trees on the eastern boundary of the site and the Arboriculturalist, whilst not raising any fatal objection has requested a Method Statement confirming how works, particularly of demolition, will be carried out without harming the tree. This should be supplied before permission is granted.

The rear terrace is three storeys which is similar to the approved scheme, is stone faced facing south and occupies a similar footprint. It sits below the level of the rear boundary wall facing Middle Warberry Road and is set further forwards from the rear boundary than the previous approval.

b) Amendments to Conversion of Villa

This departs from the 2008 approval only inasmuch as the internal layout is revised slightly to provide fewer units (from 8 to 7) the lift is relocated and the rear elevation is amended. The changes are largely beneficial particularly in relation to the layout and a principal ground floor reception room that was divided up in the 2008 approval is now retained as originally laid out.

The main reception room in the 2008 approval was to be used as a communal snooker/meeting room and this is now to be used as living space.

Demolition of an extension from the existing coach houses which extends to the villa will further free up space around the listed building improving its setting.

c) Redevelopment of Mews Building to Rear of Villa

The application for this part of the site was included later on in the consideration of the overall scheme. As it stands, the mews building to the rear of the villa is poor quality, extends too close to the listed building and thus adversely affects its setting. It was considered necessary for the impact of this to be mitigated. The '2008' scheme involved adaptation of the existing structure, maintaining the same footprint and whilst its appearance was improved, it still suffered from being too close to the listed building itself.

The revised approach involves redevelopment to provide a building with a reduced footprint, which is set back further from the main villa and forms a much happier relationship with the listed building. The elevations of the building and its overall design also follow the theme for the terraced blocks to the east and as such the mews building will read sympathetically as a garden building within the grounds of the Listed villa.

3. Viability

The 2008 approval for 42 units and health/beauty spa was accompanied by an IVA as the applicant did not consider there was sufficient profit to deliver the full AH and the community infrastructure contribution which should have been delivered on the site.

According to the SPD 'Planning Contributions and Affordable Housing' 30% of the units should have been allocated for onsite affordable housing. It was agreed that an offsite contribution would be acceptable in this instance due to the inclusion of the fee paying leisure facilities on site. A full on site AH contribution would have been in the order of £3,000,000 and following negotiations a figure of £336,500 was agreed, which is about 10% of the policy requirement along with an overage clause that would recoup AH contributions to a maximum of £1,240,000 if the market improved and higher sales values were achieved than anticipated. The Community Infrastructure Contributions totalled £63,000 which was compliant with the SPD, but did not include sustainable transport contributions due to the mitigation applied to the previous use.

A profit margin of between 15-20% is normally expected to achieve a viable scheme. An IVA has been supplied in relation to this application as the applicant considers the scheme to be unviable if it was to fully meet the requirements of the SPD. A fully compliant scheme, it has been estimated, would produce a negative developer's return of 0.23%. A scheme that delivered 0% Affordable Housing but delivered full community infrastructure contributions of £170,470 would achieve a profit margin of 8.56% GDV, which is still below the 15-20% margin that is normally deemed necessary. It is, however, in excess of the 5.4% GDV anticipated in relation to the 2008 approval.

The applicant has recently agreed to introduce an overage or deferred contributions clause similar to the one previously agreed. However, the applicant remains clear that the scheme cannot deliver an AH contribution despite the apparent increase in profitability. There is a slight increase in the community infrastructure contribution from £63,000 to 68,000. This figure reflects the mitigation applied for sustainable transport contributions due to the existing use of the site and represents 75% of the Greenspace contribution. The SDLR contribution, which will be deducted from the overall figure, will amount to £29,000, leaving very little to meet the impacts of the scheme on the local area.

The TDA have evaluated the IVA and a draft response indicates that the figures supplied are largely acceptable and confirm the low profit margin in relation to the site. More detail has been requested into sales values, costs schedule and site value, which may affect the profit margin that can be achieved on the site. The recent agreement to deferred contributions will assist in delivering some of the excess profit for AH if the market for these units is better than expected. A Member Briefing was held on the 22nd October to apprise Members of this issue.

The key issue is the lack of an upfront AH contribution and various options are being considered to see if the profit margin can be increased which would release some funds to increase the AH contribution. This involves the further evaluation of the key costs used in the IVA and feedback on this will have to be provided verbally at the meeting.

The removal of the spa and leisure facilities and diverting the money saved towards AH has been discussed with the applicant. The 'acceptable' profit margin of 8.56% included £170,470 to meet the full community infrastructure contribution and it has been suggested that the difference between this sum and the £68,000 offered, £102,470, should be put towards meeting AH requirements. This would amount to about 5% of the 'normal' policy requirement.

In response to this, the applicant has stated that there is a premium, reflected in the submitted sales values for the availability of spa facilities on site and due to this added value he would not wish to remove them from the scheme.

At the time of writing, a response is awaited on the point of diverting the 'surplus' community infrastructure money to AH provision. Progress will be reported verbally.

4. Impact on trees, landscaping and other functional matters.

Whilst the new lower terrace does extend closer to the trees than the previous approval, there is a concrete retaining wall, which is to be retained. This should ensure that the roots are not compromised by the proposed development. However due to the proximity of the new building protection measures are critical and a condition is needed to ensure that the wall is retained in place. A method statement should be submitted prior to a decision being issued to ensure that the works can take place without harm arising.

It is proposed to reinstate the Yew Tree walk which will form a landscape link between the villa and the listed garden pavilion and form an attractive centrepiece to the development. It would be appropriate to request a Woodland Management Plan to be included in resolution of the landscape proposals for the site. This can be dealt with by condition.

In respect of parking, there is an allocation of 2 spaces per unit for the larger units and 1 space per unit for the 2 one bed units. The terraces have garage parking and an allocated space and the villa and mews buildings have a landscaped parking area at some remove from the buildings.

Highways did suggest that there might be some merit in widening the access onto Lower Warberry Road but this is not desirable as the structures are listed in their own right and are a key feature in the street scene. In view of the previous use of the site, there is no requirement to improve the access or improve visibility.

5. Phasing and deliverability of key elements of the scheme.

It is vital that the listed building is restored in line with the approved plans. The agreed schedule of works and the demolition of the mews building and its replacement with a more discrete block are vital parts of the development. It is the applicant's intention to sell off the eastern portion of the site containing the 2 new terraces and retain the listed building and the mews building in his ownership.

The S106 agreement will need to include provisions for linking the development of the new terrace buildings with key stages in the refurbishment of the buildings retained in the applicant's ownership. This could be done via triggers on occupation, a bond or the use of a joint bank account. Details in relation to this have yet to be resolved.

There may be potential to incentivise the early delivery of the works to the Listed Building and the adjacent mews houses. Discussions are ongoing in this regard.

It is also important to include delivery of the spa facilities but this can be done by condition.

Otherwise the s106 needs to include the mechanism for the deferred contributions and whatever level of contribution is to be agreed.

Conclusions

The scheme is acceptable in terms of design, functional aspects and delivery. It will deliver fewer but larger units than previously agreed. There are improvements in design particularly in relation to the listed building, its setting and there will be assured implementation of the works. It achieves resolution of a site that has become neglected. It will create a quality residential scheme that will add to range of the housing stock available in the area. 34 dwellings will be provided within the built up area on a brownfield site and this will make a significant contribution to the Council's 5 year housing land supply.

The IVA and its scrutiny by the TDA reveal only limited options for increasing the profit margin. Investigations are continuing into site value, sales value and costs to see if there may be the opportunity of deriving more value from the site. The lack of an AH contribution is regretted and has to be weighed in the balance.

Nonetheless, it is important that the adopted policy in relation to AH is met and it is hoped that

some additional value can be derived from the site that will allow an acceptable level of contribution to be made. However, at the time of writing this matter is still under discussion and progress on this will need to be reported verbally.

Recommendation:

Site Visit; Conditional Approval of application reference P/2013/0372; subject to:

- a) Delivery of an acceptable level of affordable housing contribution
- b) Conclusion of a S106 agreement to secure agreed affordable housing contribution and a level of deferred contributions; any agreed community infrastructure contributions; tying of the various applications together to form an agreed phasing programme and; mechanism to deliver implementation of the schedule of works to restore the listed villa and replace the adjacent mews building.
- c) Conditions as itemised at the end of the report.

Subject to the decision made on application reference P/2013/0372 the decisions on the remainder of the applications could take one of the following routes:

3. In the event that the first application (P/2013/0372) is approved, the remainder are to be considered on their merits and if approved they can then be related through 106 to the principle decision. In the event of approval of P/2013/0372, the decision would need to include a Grampian style condition or 106 clause to prevent implementation without a valid consent and associated delivery for the works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891)
4. In the event that the first application (P/2013/0372) is refused, the remainder are again to be considered on their merits. However, given the clear connection between the applications they should either also be refused (on the grounds of piecemeal delivery and/or lack of 106) or if approved, there should be appropriate 106 mechanisms put in place. These mechanisms should ensure that the permissions for works to, and adjacent to, the Listed Building (Applications P/2013/0400, P/2013/0401 and P/2013/0891) are not implemented in part / in isolation so as to result in a part completed scheme. In addition, if they are approved notwithstanding the refusal of P/2013/0372, then a s106 must ensure that they remain as part of the wider site in terms of 106 obligations on commuted sums and affordable housing.

Conditions:

1. Large scale detail in relation to new build and listed building.
2. Samples of materials /sample stone panel
3. Phasing Plan/implementation of works to listed building in line with schedule of works
4. Landscape detail and submission of WMP.
5. Implementation of car parking, cycle parking etc
6. Tree protection measures
7. Delivery of spa facilities to an agreed time table
8. Detail of internal works to listed building in terms of services/thermal/sound insulation etc.
9. Audit of internal features to be protected.
10. Details of all boundaries/fences.
11. Reinstatement/refurbishment of pavilion building/gates piers.

Relevant Policies

- HS - Housing Strategy
- H2 - New housing on unidentified sites
- H6 - Affordable housing on unidentified sites
- H9 - Layout, and design and community aspects
- H10 - Housing densities

TUS - Tourism strategy
TU7 - Change of use or redevelopment of new ho
CF6 - Community infrastructure contributions
LS - Landscape strategy
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
BE6 - Development affecting listed buildings
TS - Land use transportation strategy
T1 - Development accessibility
T3 - Cycling
T25 - Car parking in new development
T26 - Access from development onto the highway

Agenda Item 9

Application Number

P/2013/0136

Site Address

Junction Of Kings Ash Road And Spruce Way
Paignton
Devon
TQ3 3XF

Case Officer

Matt Diamond

Ward

Blatchcombe

Description

Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge

Executive Summary/Key Outcomes

The proposals are to carry out alterations to the King's Ash Road/Spruce Way junction in order to provide a new access link road into the allocated housing site known as Great Parks Phase 2 to the west. This link road would be the primary access point into the proposed housing site. A master plan is currently being prepared to design the layout of this area.

The proposals are vital in securing appropriate access and infrastructure to support the delivery of phase 2 of Great Parks. The site is an important part of the Council's housing land supply and the delivery of the junction will open the site up to development.

The road would be widened to the west in order to provide the new junction meaning the housing to the east of the road would remain largely unaffected by the proposals. The frontages of the residential properties Mysca and Smallcombe to the west of the road would be directly affected by repositioning their front boundaries closer to the dwellings. However, the areas that would be lost are relatively small and it is considered that the impact on their amenities is acceptable given the distances that would remain between the dwellings and the road. A number of concerns have been raised regarding access and parking to these properties, but the Highways department has confirmed that the changes are acceptable, subject to relocating the access to Mysca further north which should be a condition of planning permission if the application is approved.

The frontage of Hilltop Nursery would also be affected by removing the existing access to the nursery from King's Ash Road and part of the hardstanding used for parking in front of the nursery buildings, together with a grassed area. However, a new access would be provided off the new link road and replacement parking space provided (no objections have been received from the nursery). The access would also provide access to the horse stables to the west and has been designed to allow access by 4 x 4 vehicles pulling trailers/horseboxes. However, access by lorries delivering feed and hay to the stables might be difficult and a condition is required to test to see if this is achievable and amend the access accordingly if it is deemed to be necessary.

The development would remove a relatively small area of the Ramshill County Wildlife Site (CWS), including associated grassland and hedgerow habitats. However, an Extended Phase 1 Habitat Survey Report submitted with the application notes this represents less than 0.05% of the CWS and, partly due to the existing impact from the road, the ecological integrity of the CWS would not be affected. Likewise, no harm is expected to the greater horseshoe bat population or South Hams Special Area of Conservation (SAC) at Berry Head as a result of the proposals in isolation, and the report states it is highly unlikely that there would be a negative effect event on greater horseshoe bats in combination with other projects in the area. However, a screening assessment is required to determine whether an appropriate assessment is needed under the Habitat Regulations. This is currently being carried out and the position will be updated at committee. Ecological mitigation and enhancement is recommended in the Survey Report and can be secured by condition.

Recommendation

Conditional Approval; conditions to be delegated to Executive Head of Spatial Planning (condition headings at end of report).

Site Details

The site is located on the outskirts of Paignton. It includes the following land:

- part of an agricultural field to the west of King's Ash Road (A380) and south of Hilltop Nursery;
- a 330m stretch of King's Ash Road;
- the junction between King's Ash Road and Ramshill Road;
- the junction between King's Ash Road and Spruce Way;
- part of an access lane adjacent to Hilltop Nursery; the grass embankment and part of the car park and grassed area to the front of Hilltop Nursery;
- the northeast corner of the residential property 'Mysca'; and
- the northeast corner of the residential property 'Smallcombe'.

The site area is 0.93 ha. It is bounded by agricultural land, Hilltop Nursery and residential properties to the west, and residential properties in Hoyle's Road, Ramshill Road, Honeysuckle Close, Spruce Way, Kerria Close, Abelia Close and Smallcombe Road to the east.

Part of the site to the west is allocated for housing in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan') as part of Great Parks Phase 2; a master plan is being prepared to develop this area. This area is also located within the Ramshill County Wildlife Site (CWS) and SINC (Sites of Importance for Nature Conservation). A small part of the site to the northwest is within the Countryside Zone and Area of Great Landscape Value (AGLV). In addition, parts of the site to the north are located within the 5km buffer greater horseshoe bat sustenance zone and a strategic flyway associated with the South Hams Special Area of Conservation (SAC) at Berry Head.

Detailed Proposals

The proposal is to construct a new link road into the allocated housing site at the King's Ash Road/Spruce Way junction, with associated widening of King's Ash Road to the west to provide two additional traffic lanes. A new footway/cycleway would be built into the housing site and grassed verge/landscaped area provided.

As a result of the works, the front boundaries of Hilltop Nursery, Mysca and Smallcombe would be repositioned closer to the properties, and a new boundary wall would be built for Smallcombe. A new access would also be provided to Hilltop Nursery.

Summary Of Consultation Responses

Highways/Strategic Transportation: No objection. Sufficient space would remain to the front of Smallcombe for vehicle manoeuvring. The visibility splays are acceptable. The access to Mysca should be relocated to the north.

Environment Agency: Referred to standing advice for Local Planning Authorities, which states no consultation required - see surface water management good practice advice. This advice note promotes sustainable surface water management in order to prevent drainage from new development increasing flood risk either on-site or elsewhere. Sustainable drainage systems (SuDS) are strongly encouraged. The layout and landscaping of the site should aim to route water away from any vulnerable property and avoid creating hazards to access and egress routes. No flooding of property should occur as a result of a one in 100 year storm event (including an appropriate allowance for climate change). The developed rate of run-off into a water body should be no greater than the existing rate of runoff for the same event.

Engineering - Drainage: Awaiting response.

South West Water: No objection. There are public water mains in the area which are likely to be affected and may require diversion/protective measures, which will be addressed directly with Torbay Council as the applicant under the terms of the New Roads and Street Works Act consultation process.

Natural England: Requested further information initially and then issued standing advice on bats. Stated Natural England is broadly satisfied that the mitigation proposals, if implemented, are sufficient to avoid adverse impacts on the local population of bats and therefore avoid affecting favourable conservation status.

RSPB: Concerned the proposal may adversely affect Cirl buntings and Cirl bunting habitat, and that the application has been submitted ahead of a master plan for Great Parks Phase 2 and the necessary associated green infrastructure and wildlife habitat mitigation. The application documentation does not address Cirl bunting mitigation. Makes several recommendations to ensure no harm to breeding Cirl buntings and to retain important habitats if planning permission is granted.

Arboricultural Officer: A number of trees will be removed resulting in a loss to visual amenity and a potential negative effect on habitat and possible wildlife corridor. Mitigation planting could be provided to the top of the banks. If the existing trees are part of a wildlife corridor, replacement planting with extra heavy standards should take place as soon as possible, otherwise this may wait until completion of the landscape master plan.

Suitable for approval on arboricultural merit, subject to conditions to comply with the arboricultural report and submission of a detailed landscaping plan.

Senior Historic Environment Officer: There is archaeological evidence in the fields to the west of the application site. Therefore, a condition is required securing the implementation of a programme of archaeological works, including an appropriate survey, prior to the commencement of development. If archaeological deposits are found, this area should be avoided and fenced off during construction.

Torbay Development Agency: No response.

Torbay Coast and Countryside Trust: No response.

Torbay Local Access Forum: No response.

Summary Of Representations

Four objections were received against the previous application ref. P/2012/0388/R3. There have been four objections to this application, two of which raise the same issues as the previous application. The following material considerations have been raised:

- Impact on the amenity of Smallcombe;
- Loss of parking area for Smallcombe and area to manoeuvre safely in and out of the property;
- Impact of water runoff from the new highway and standing water on the highway on existing properties;
- Impact of vibrations from HGVs on existing properties;
- Increased traffic pollution;
- The proposed footway along the west of the proposals should be extended to the access of Mysca to provide a safe pedestrian route from this property to the pedestrian crossing at the new junction;
- The access to Mysca should be relocated to the north where the northbound carriageway reduces to one lane, for safe access/egress to/from this property - this will require the re-siting of the existing garage;
- The proposed alterations to the access to Mysca would inhibit manoeuvring in and out of the

- garage of the property due to obstruction and steeper levels;
- Are the necessary visibility splays provided for the new access to Mysca?
- Emergency access should be provided to Mysca whilst construction works take place;
- The new front boundary treatment for Mysca should be designed to take account of noise from traffic and potential loss of privacy, as the road will be closer to the property;
- Inadequate provision for cyclists and pedestrians - on carriageway cycle lanes are required on both sides of the road and in both directions, and advanced stop lines (ASLs) at the new junction and junction with Cotehele Drive;
- A pedestrian crossing should be provided at the new junction, such as the pelican crossing at Cotehele Drive;
- Loss of part of the access lane adjacent to Hilltop Nursery for exercising horses and ability of horse riders to cross the new junction safely - suggest pedestrian crossing control device mounted at high level to access from horseback;
- The new access to the existing access lane adjacent to Hilltop Nursery should be designed to allow access by vehicles pulling trailers and horse boxes, and lorries delivering feed and hay to stables;
- Loss of hard standing adjacent to existing access lane for parking vehicle in inclement weather in association with horse stables;
- Impact on other bird species apart from Cirl bunting;
- No mention of deer in habitat survey, which are present in the fields to the west;
- Any development along King's Ash Road will have an adverse effect on an already congested road to the detriment of tourism.

Relevant Planning History

P/2012/0388/R3: Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge: Withdrawn 18.02.2013

Key Issues/Material Considerations

The key issues are:

1. The principle of the development
2. Impact of the proposals on highway safety and function
3. Provision for pedestrians, cyclists and horse riders
4. Impact on residential amenity
5. Impact on biodiversity/loss of part of CWS
6. Impact on trees
7. Surface water drainage
8. Pollution
9. Archaeology

1. The principle of the development

The principle of the development is acceptable. Policy TS(9) of the Local Plan allows for new road construction for essential access and Policy T22 states that schemes are proposed to allow the release of new sites allocated for development along the Western Corridor route. Therefore, the principle of the development has been accepted in the Local Plan. It is not considered that the proposals would have an impact on tourism, as has been suggested.

The provision of the junction is vital in releasing the land at Great Parks for future residential development. This is a significant material consideration.

2. Impact of the proposals on highway safety and function

Highways have commented that the proposals are acceptable. In regard to the specific concerns

raised by local residents, Highways have confirmed that there would still be sufficient space to the front of Smallcombe for vehicles to manoeuvre and exit the site in forward gear. Highways have also confirmed that the necessary visibility splays for the accesses to Smallcombe and Mysca can be provided.

In regards to the comments regarding the acceptability of the access to Mysca, Highways have confirmed that the access should be relocated to the north for safety reasons. This would necessitate the relocation of the garage to this property. In regard to the point that the proposed footway should be extended to the north of the new junction to Mysca, it has been agreed with Highways that an informal footway can be provided, but the formal footway should terminate at the new junction in order to encourage pedestrians to cross the road at this point for safety.

With regard to the existing stables to the west, the new access to Hilltop Nursery has been designed to allow access by 4 x 4 vehicles pulling trailers/horseboxes, so it can also be used by the stables; however, a condition is needed to ensure it is also adequate for lorries delivering feed and hay. There appears to be space to park vehicles in front of the gate to the existing access lane to the stables without disrupting traffic to Hilltop Nursery. Replacement parking area would be provided for the nursery to replace the existing area of hardstanding that would be lost.

Therefore, subject to conditions to relocate the access to Mysca and ensure the access to Hilltop Nursery is adequate for lorries, the proposals accord with Policies T18 and T26 of the Local Plan.

3. Provision for pedestrians, cyclists and horse riders

Representations have been received commenting on the inadequate provision for cyclists and pedestrians. Policy T3 states the needs of cyclists should be taken into account in the design and implementation of all highway schemes and Policy T20 requires adequate provision for pedestrians and cyclists in all road improvement schemes.

Whilst not a road improvement scheme, it is considered that provision for cyclists and pedestrians has been adequately catered for in the proposals. A new footway/cycleway would be provided into the allocated housing site and the intention is that the cycleway would continue through the housing site/community park instead of up the steep slope along the Western Corridor, hence the reason why no cycleway is shown on the southbound carriageway. Furthermore, the applicant has confirmed that advanced stop lines (ASLs) would be included in the detailed design and controlled pedestrian and cycle crossings would be provided at the new junction. The latter could be designed to also cater for horse riders; an informative should be placed on any planning permission to address this accordingly.

4. Impact on residential amenity

Whilst King's Ash Road would be widened in the vicinity of the new junction, it is considered that this would not have an adverse impact on the amenities of existing residential properties to the east, as the carriageway widening would be to the west.

With regard to Mysca, whilst the proposals would create two additional lanes in front of the property (one right turning) and the carriageway would be between 1 and 3 metres nearer to the dwelling than at present, the dwelling would be between 22.5 and 23.5 metres away from the carriageway. This is considered sufficient to maintain adequate levels of amenity to the dwelling.

With regard to Smallcombe, the road would still have two lanes in front of the property and the carriageway would be between 0 and 2 metres nearer to the dwelling than at present. The dwelling would be between 8 and 8.5 metres away from the carriageway, which is considered sufficient to maintain adequate levels of amenity.

Given the relatively small changes in separation distance involved with these properties, the impact of vibrations from HGVs on the dwellings is unlikely to be significantly worse than at present.

Therefore, the proposals accord with paragraph 17 of the National Planning Policy Framework (NPPF) in terms of achieving a good standard of amenity for existing occupants of land and buildings.

5. Impact on biodiversity/loss of part of CWS

An extended phase 1 habitat survey has been carried out. It anticipates the likely impacts of the proposals to be as follows:

- loss of a negligible area of generally unsuitable bat habitat (0.1 ha of unmanaged pasture and 200m of narrow grassland verge) within the South SAC Flyway and Sustainance Zone;
- loss of a negligible area (approximately 0.1 ha) of Ramshill CWS;
- loss of a very short section of hedge (approximately 30m) as well as a few semi-mature boundary trees and a small area of grassland (0.2 ha); and
- loss of habitat for nesting birds (possibly including curlew) and possibly reptiles.

It concludes that greater horseshoe bats and the South Hams SAC are unlikely to be affected by the proposals, due to the type and extent of habitat that would be lost, the presence of existing street lights and relatively small scale of the scheme. It goes on to say that it is highly unlikely that the Lyme Bay and Torbay SAC would be affected by the proposals during the construction phase from surface water runoff. In addition, loss of a part of the CWS would not affect its ecological integrity, due to the limited areas of loss of hedge and grassland habitat, and their already disturbed nature adjacent to the existing road. It recommends that the new verge and landscaped area to the west of the new road should be double planted with a species-rich hedge, and the verge should be constructed using nutrient-poor subsoil to encourage a species-rich sward to establish. In addition, planting with a locally suitable wild flower seed mix would be valuable in terms of biodiversity and landscape enhancement. If possible, new lighting along the road should minimise light-spill onto the adjacent habitat through directional or cowled lighting in order to minimise harm to greater horseshoe bats. These mitigation measures should be secured by condition.

In terms of impacts on Curlew, the new species-rich hedge will provide mitigation for loss of habitat, as will additional bird habitat in the community park in the long run. The report recommends that no vegetation clearance should take place between 15 March to 15 October, which should be conditioned.

In terms of impacts on reptiles, the report says it is important reptiles are not harmed when clearing vegetation. It recommends a suitable method to achieve this, which should be conditioned.

Subject to the conditions outlined above, the proposals are acceptable with regard to impacts on biodiversity and the CWS. However, before planning permission can be granted an HRA screening of the site needs to be undertaken to determine whether an Appropriate Assessment is required. External consultants have been instructed to do this and the position will be updated at committee.

6. Impact on trees

As mentioned above, a number of trees would be removed along the western/field boundary and within the hedgerow south of Hilltop Nursery. The Arboricultural Implications Assessment submitted with the application concludes that none of the trees along the western/field boundary have sufficient amenity quality to constrain the development. There would be ecological impacts associated with the loss of trees within hedgerows, but this has already been dealt with above.

In terms of mitigation, the assessment recommends planting a variety of replacement tree species within the Great Parks Phase 2 development and appropriate tree protection measures during construction. The Arboricultural Officer accepts this and recommends mitigating planting to the top of the banks forming the junction and slip lanes. A landscaping plan is required by condition

accordingly and this should be attentive of future applications, local tree type, wildlife benefits and the importance of integrating the junction and future dwellings into the landscape from local and distant view receptors.

7. Surface water drainage

A sustainable drainage system is indicated on the application form, but no details have been provided. This accords with guidance from the Environment Agency. A condition is required to approve these details before development commences.

8. Pollution

Representations have raised concerns over increased traffic pollution. However, as air pollution disperses fairly quickly as you move away from a road and there are no existing dwellings that would abut the new road, this is not considered to be a significant issue to warrant refusal of the application. Air quality will continue to be monitored in Torbay under separate legislation. At present, Air Quality Management Areas (AQMAs) exist on Hele Road and at Brixham Town Hall only.

9. Archaeology

There are archaeological remains in the fields to the west, but these have not been accurately surveyed. Therefore, an appropriate archaeological condition is required. The works secured by this condition must be carried out before development commences in order to protect any potential archaeological deposits from construction traffic.

S106/CIL -
N/A

Conclusions

Subject to the conditions outlined in the key issues section above, the proposed alterations to form a new link road at King's Ash Road/Spruce Way to provide access to the allocated housing site to the west are acceptable from a planning perspective. However, before planning permission can be granted an HRA screening of the site needs to be undertaken to determine whether an Appropriate Assessment is required. External consultants have been instructed to do this and the position will be updated at committee.

Condition(s)/Reason(s)

01. Construction Method Statement
02. Revise drawings to show access to Mysca repositioned to the north and informal footway
03. Test access to Hilltop Nursery to ensure it is adequate for lorries and redesign accordingly if it is deemed necessary by the Local Highway Authority
04. Landscaping plan to address ecological mitigation measures and replacement tree planting
05. Lighting details to minimise impact on ecology
06. No vegetation clearance between 15 March and 15 October to protect breeding birds
07. Method to clear vegetation to ensure no harm to reptiles
08. Tree/hedgerow protection measures during construction
09. Details of surface water drainage

10. Archaeology

Relevant Policies

H1 - New housing on identified sites

L2 - Areas of Great Landscape Value

L4 - Countryside Zones

L8 - Protection of hedgerows, woodlands and o

L9 - Planting and retention of trees

NCS - Nature conservation strategy

NC1 - Protected sites - internationally import

NC3 - Protected sites - locally important site

NC5 - Protected species

EPS - Environmental protection strategy

EP3 - Control of pollution

EP4 - Noise

EP5 - Light pollution

TS - Land use transportation strategy

T3 - Cycling

T18 - Major Road Network

T20 - Road improvements

T22 - Western Corridor

T26 - Access from development onto the highway