



Tuesday, 26 February 2013

## **DEVELOPMENT MANAGEMENT COMMITTEE**

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

**Wednesday, 6 March 2013**

commencing at **2.00 pm**

The meeting will be held at Parkfield, Colin Road, Paignton, TQ3 2NR

### **Members of the Committee**

Councillor McPhail (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Barnby

Councillor Hill

Councillor Kingscote

Councillor Pentney

Councillor Stockman

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

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01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)



# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 11 February 2013.

(Pages 1 - 2)

3. **Declarations of Interests**

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

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

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

4. **Urgent Items**

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

5. **P/2012/1309/MPA - Middle Street Car Park and Town Square, Land bordered by Bank Lane, Brewery Lane, Middle Street and Paradise Place, Brixham**

(Pages 3 - 27)

Provision of a 4 storey building containing a Class A1 supermarket [net sales 2791m<sup>2</sup>], 8 A1 and A2 retail units [ GIA 218m<sup>2</sup>] including a shopmobility unit on the ground floor level, 340 car parking spaces on levels 1-3, 14 residential dwellings facing Middle Street, associated public realm improvements, highway alterations and access provision. Remediation of land and all necessary infrastructure provision. This application is accompanied by an Environmental Statement.

6. **P/2012/0911/R3 - 2 Fore Street, Brixham** (Pages 28 - 36)  
Demolition of 2 and 2A Fore Street; junction realignment and replace with 2 ground floor retail units and 2 first floor apartments.
7. **P/2012/0910/CA - 2 Fore Street, Brixham** (Pages 37 - 42)  
Demolition of 2 and 2A Fore Street.
8. **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](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
9. **Site visits**  
A site visit will take place prior to the meeting of the Committee at a time to be notified.



## Minutes of the Development Management Committee

11 February 2013

-: Present :-

Councillor McPhail (Chairwoman)

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

### 124. Apologies for absence

An apology for absence was received from Councillor Addis. 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 Brooksbank instead of Councillor Addis.

### 125. Minutes

The Minutes of the meeting of the Development Management Committee held on 14 January 2013 were confirmed as a correct record and signed by the Chairwoman.

### 126. P/2012/1205/PA - 40 Magdalene Road, Torquay

The Committee considered an application for the conversion of ancillary accommodation to form 2 self contained residential apartments – retrospective.

Prior to the meeting written representation were circulated to the Committee and members of the Development Management Committee undertook a site visit. At the meeting Susie Colley and Julie Brandon addressed the Committee against the application.

Resolved:

Approved subject to:

- (i) the receipt of revised plans detailing alterations to the windows on the east elevation, which shall be replaced with high level outward opening fanlight windows, fitted with laminated glass
- (ii) the cycle store shown on the approved plan shall be available to residents of each of the residential units hereby approved at all times; and
- (iii) the completion of a Section 106 Agreement in respect of waste management, sustainable transport, education , lifelong learning, greenspace and recreation and the South Devon Link Road within three months of the date of this Committee or the application be refused for the lack of a s106 agreement.

**127. P/2012/1131/PA - Land Off Edginswell Lane, Edginswell, Torquay**

The Committee considered an application for the erection/replacement of logging contractors shed and associated hard standing and track.

Prior to the meeting members of the Development Management Committee undertook a site visit. At the meeting Harry Stephens addressed the Committee in support of the application.

Resolved:

Approved subject to conditions in respect of landscaping, outside storage of machinery and equipment, extent of outdoor log storage and the height of log piles, building materials and colours.

**128. P/2012/1074/MPA - Land Off Alfriston Road, Paignton**

The Committee considered an application in respect of minor revisions to layout and reduction in number of dwellings; residential development to form 92 dwellings, creation of new vehicular and pedestrian accesses and associated works.

Prior to the meeting written representations were circulated to the Committee and members of the Development Management Committee undertook a site visit. At the meeting Simon Collier addressed the committee in support of the application.

Resolved:

Consideration deferred for further negotiations with the applicant in respect of the remaining design issues (as set out in the recommendation on page 18 of the agenda report), and the undertaking of a viability assessment and further negotiations in respect of the contents of the Section 106 Agreement.

**129. P/2012/1316/VC - Paignton Rugby Club, Queens Road, Paignton**

The Committee considered an application for a variation of condition 3 attached to planning application P/1994/0484 – to allow floodlighting to be used for four nights a week.

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

Resolved:

Approved for 4 days per week, with a condition re-iterating that the lights shall not be used after 9.30 p.m. on each night of operation.

# Agenda Item 5

**Application Number**

P/2012/1309

**Site Address**

Middle Street Car Park And Town Square  
Land Bordered By Bank Lane,  
Brewery Lane, Middle Street  
And Paradise Place.  
Brixham

**Case Officer**

Mrs Ruth Robinson

**Ward**

Berry Head With Furzeham

**Description**

Provision of a 4 storey building containing a Class A1 supermarket [net sales 2791m2], 8 A1 and A2 retail units [ GIA 218m2] including a shopmobility unit on the ground floor level, 340 car parking spaces on levels 1-3, 14 residential dwellings facing Middle Street, associated public realm improvements, highway alterations and access provision. Remediation of land and all necessary infrastructure provision. This application is accompanied by an Environmental Statement.

**Executive Summary/Key Outcomes**

The proposed development occupies a highly sustainable location in the heart of Brixham Town Centre and the site is allocated under Local Plan policy S5 for new retail development. Paragraph 6.24 of the Local Plan confirms capacity for up to 20,000 sq.ft.net of convenience floor space to be provided within the town centre. The convenience element of the proposals is close to this figure.

An ES has been prepared to provide sufficient information about the environmental impacts of the proposal and this indicates that these are capable of mitigation.

Brixham has long underperformed as a shopping destination. Town Centres face major challenges created by a lack of funding, concerns about consumer spending, the rise of internet shopping and competition from out of town retail developments. This town centre scheme has been long in fruition and its viability has been affected by these ongoing uncertainties. It is an expensive site to develop due to the need to remediate the contaminated land, to mitigate flood risks and to cloak the building to create active street frontages. The applicants are quite clear that this is the size of scheme that is required to make delivery of this town centre scheme viable.

There are clear, documented benefits arising from town centre retail development in terms of claw back and retaining in centre the significant amount of spend that currently diverts to out of town stores in Paignton and Torquay. The GVA Retail Capacity Update 2011 identifies that only 16% of residents identified the town as the first choice for main food shopping trips and only 29% for second choice shopping trips. An assessment of the benefit of in centre development carried out by Southampton University suggests that on average 70% of this lost expenditure has been retained in town centres when similar proposals have gone ahead. This would have clear benefits in terms of reinforcing the economic base of the town centre providing that linked trips to the adjacent town centre shops were encouraged and facilitated.

The need to significantly increase the level of retail space in the town if it is to compete with nearby towns is documented in successive retail studies and proposals to deliver it embodied in the adopted and emerging Local Plan. In terms of national guidance, the NPPF contains a presumption in favour of sustainable development and heavily promotes a 'Town Centre First' approach to achieving sustainable economic growth.

Town Centre regeneration opportunities are increasingly rare in the current climate. They are complex projects and in a constrained and attractive environment it is unsurprising that strong views exist about the costs and benefits of the proposal.

Those in favour of the scheme contend that this proposal will pump money into the town, achieve regeneration, provide jobs, secure investment in the fabric of the town that will be otherwise difficult to come by, provide increased choice and more competitively priced food and, through linked trips, secure a brighter future for the existing traders.

Those against feel that the scale of the proposal will dominate the town physically, damaging its special character and economically drawing trade away from the existing town centre. The concern is that the loss of existing jobs, closure of existing outlets and traffic congestion will lead to the further deterioration of the town centre.

At the heart of the many objections is a clear concern about the size of the proposal and the consequent impacts that this will have on the quaint character of the town. These impacts have been evaluated and where achievable, mitigation agreed.

- The uses, comprising a food store and car parking dictate the form of the building. This has been mitigated by cloaking the building in 'facades' to recreate street frontages and to knit this into the character of the town. The design approach has been 'finessed' during the life of the application to create a stronger 'sense of place', greater cohesion with the character of the town and to reflect the changing context around the site. A more locally distinctive natural palette of materials has been agreed. This helps mitigate concerns about impact on the townscape
- The encouragement of linked trips is vital if the benefits to the town centre are to be realised. This requires the site to be fully integrated with the town centre. Public realm enhancements will help deliver greater integration and encourage and facilitate pedestrian movement between the store and the town centre. The increased car parking levels that this scheme delivers will benefit the wider town centre and the 1.5 hours free parking will further encourage linked trips.
- The scheme will deliver a substantial amount of money to be spent in the town to deliver sustainable transport improvements such as enhanced bus services, cycling improvements, wider public realm enhancements or contributing towards the fast ferry service. This will help ensure more sustainable access to the town particularly in the summer months.
- The opportunities for bus use are enhanced by the relocation of the number 12 bus bay to a widened and resurfaced Brewery Lane. Signage seating and shelters will upgrade both Brewery Lane and Bank Lane bus waiting areas.
- Phased implementation of the car park and use of shuttle buses will help mitigate the loss of car parking during construction.
- Junction improvements will ensure that additional traffic flows are catered for.
- A Heritage Lottery Bid can be funded by money derived from this scheme which will be used to help regenerate the Paradise Place/Furze Lane area located between the site and the harbour.
- A site that is contaminated will be remediated and flood risk issues for the site and adjacent properties will be ameliorated.

In reaching a decision on this site it is necessary to take a balanced view of the relative merits of the scheme. Whilst there are understandable concerns about the scale of the

proposal the benefits to the town could be significant if the degree of clawback suggested in various studies is achieved.

Brixham is in need of investment and in the current economic climate opportunities to achieve this are becoming increasingly rare.

## **Recommendation**

Approve: subject to the receipt of revised plans to illustrate the agreed finessing of the elevations and public realm, the conclusion of a S106 agreement at the applicants expense, to achieve the matters itemised in the report and to the conditions highlighted at the end of the report.

## **Statutory Determination Period**

As this application is accompanied by an Environmental Statement the statutory determination period is 16 weeks. This period expires on 29 March. However, it is likely that the Government will not count EIA applications in their forthcoming performance monitoring on major applications. As such, although officers intend to expedite matters swiftly following the decision of the committee, there is no imperative to issue the decision before 29 March in the event that any matters of detail in finalising the decision remain unresolved.

## **Site Details**

The site comprises the existing town centre car park and Town Square. It is bounded to the north by Middle Street, to the west by Bank Lane, to the south by Brewery Lane and to the east by Paradise Place, Furze Lane and Pump Street, which comprise a network of narrow lanes that lie between the application site and the Harbour.

Fore Street, the main town centre shopping destination lies immediately to the south of the site. There are existing pedestrian links via Union Lane and a narrow unnamed lane adjacent to Barclays Bank.

Originally part of the old Harbour, the site was reclaimed and used for a range of commercial activities including the town gas works. This was replaced by a 3 storey 340 space car park in the 1960s which was recently demolished for structural reasons. 170 car parking spaces occupy the existing surface car park. The Town Square, formerly the site of the Bus Station, is a hard paved area with seating and occupies the area between the car park and the church.

Adjacent to the Town Square is the bus bay which serves the number 12 bus and immediately to the south of this is the vehicular access to the car park.

The site occupies a valley bottom which rises up steeply on all but the seaward side. Development has evolved over time to respond to the topography with a range of terrace forms. Predominantly a mix of commercial and residential uses around the town centre, the higher slopes provide densely developed residential areas.

The site is located within the defined Town Centre and Brixham Town Centre Conservation Area. The area around the application site is also a defined AQMA [Air Quality Management Area] where works to realign the Bolton Cross junction are proposed to reduce pollution and improve air quality.

The architectural character of the area is a pleasing mix of eras and styles from the quaint 'fishing' lanes that thread down to the harbour to the more formal Victorian buildings that occupy key positions around the site.

### **Detailed Proposals**

The application is submitted in detail for the construction of a food store with a gross floor area of 46,748 ft<sup>2</sup> [4343m<sup>2</sup>] and a net sales area of 30,042.ft<sup>2</sup> [2791m<sup>2</sup>]. Of this, 1860 m<sup>2</sup> will be convenience sales and 484m<sup>2</sup> will be comparison sales. It includes 8 A1 and A2 units with a floor area of 218m<sup>2</sup> including a shopmobility unit at ground floor level. The upper levels of the car park, levels 1-3, will provide 340 car parking spaces including disabled spaces, located adjacent to the travelator and cycle parking.

The scheme also includes the construction of 14 residential units predominantly facing Middle Street of which 8 are 3 bed family homes, 4 are 2 bed flats and 3 are 1 bed flats. Parking for these dwellings will be provided within the new car park. There are public realm improvements to Union Lane, Brewery Lane and Paradise Place. The bus bay is realigned and other highway works to facilitate vehicular and pedestrian access. The land which is contaminated will be remediated. Measures to attenuate Flood risk are to be included within the scheme.

The form of the building is heavily influenced by the proposed uses but a requirement of the design process has been to identify how the facades of the building can be best handled to ensure that there is some fit and continuity with the character of buildings around the site.

The application is accompanied by the following:

An Environmental Statement, Design and Access Statement, Flood Risk Assessment, Contaminated Land Report, Transport Assessment and Travel Plan and a Statement of Community Involvement.

### **Summary Of Consultation Responses**

#### **English Heritage**

Have no objection to the principle of developing the site for a foodstore acknowledging that a retail case for such development exists and that this site is the only suitable option.

Whilst accepting that a solid block of development is not consistent with prevailing townscape character, the physical qualities of the site - its shape, size, topography and contextual relationships - provide a "hole" within which such a block might be reasonably placed. The 'wrapping' of its perimeter with retail and residential units to mitigate harmful impact is considered a legitimate approach. The acceptability of the scheme is dependant on the success of this approach.

Attention is drawn to the potential impacts of the roof and in particular the openness of the upper deck of the car park and there is a wish to see this tested.

This is considered a once in a lifetime opportunity to secure the future of the town particularly given the at risk status of the Conservation Area and it needs to be demonstrated that the scheme will achieve the widest possible benefits for the area such that will outweigh any potential 'harm.'

The areas considered to require attention are:

- The impact of the open deck car park and opportunities for mitigation.
- The robustness of the assessment on impacts on heritage significance.

- The need to improve the design of the frontages (to Middle Street and Brewery Lane in particular) to achieve more contextually sensitive responses and to improve the quality of materials.
- To provide more detailed evidence on the public benefits arising from the scheme, for example in terms of enhanced GDP, footfall and increased per capita spend and opportunities for linked investment in town fabric.

EH encourage pursuing the points raised in order to minimise or remove entirely any suggestion of harm to heritage assets and optimise on the benefits to the area which the scheme might deliver.

Improvements to the elevations, to the palette of materials and to the scope and character of public realm treatments secured since the application was submitted are considered 'promising'

#### **Environment Agency:**

Have no objection subject to conditions in relation to implementation and maintenance of flood defence measures.

#### **Drainage:**

No objections

#### **South West Water:**

No objections subject to accommodating existing sewers within the site.

#### **Highways:**

In respect of the original TA [Transport Assessment] concerns were raised about the lack of assessment of the capacity of the existing junction to accommodate increased traffic levels, whether the modelling used underestimated new trips through Bolton Cross and the acceptability of the bus/servicing arrangements. Concerns also related to the reduced lane width in Middle Street and the need for a SPA [Swept Path Analysis] for the new roundabout and turning head.

A supplementary TA has been submitted in response to these concerns and this has largely addressed issues in relation to buses and servicing. There are continuing discussions in relation to the level of new trips likely to be attracted to Bolton Cross and the impact that this will have on the capacity of the junction in its existing and its proposed arrangement. The outcome of the revised modelling exercise is being tested by a 3<sup>rd</sup> party to ensure robustness. The outcome of these discussions will be reported verbally.

#### **Environmental Health:**

Has concerns that the development could have an adverse impact on air quality although modelling in the ES indicated a minimal impact.

The EHO has concerns that the modelling was based on DEFRA background maps which may not be indicative of the area. Additional modelling has been requested along Middle Street/Bank Lane to confirm that background figures are appropriate and that increased traffic movements will not have a negative impact on AQMA. A condition is recommended to achieve monitoring and to ensure that air quality is maintained.

In respect of noise, it is recommended that the mitigation in respect of noise and vibration during the construction phase outlined in the ES should be followed and if necessary conditioned.

Conditions are also recommended in relation to the residential units adjacent to the service bay and plant room to secure soundproofing measures to mitigate noise and vibration. A condition in relation to external plant and machinery is also required.

A Delivery Service Plan is needed to govern times and management of deliveries and should include a requirement for a 'Banksman' to supervise use of service bay. Consideration should be given to controlling access to and abuse of car park.

A condition in relation to storage of waste is required.

Conditions to establish the extent and nature of contamination and to secure appropriate remediation are also required.

### **Design Review Panel:**

The scheme has been reviewed by the Panel on 4 occasions, 2.10.08, 3.12.09, 4.02.11 and most recently on the 27.09.12.

The comments in summary are that: 1) the treatment of the west and south facades now produces a 'stronger more active perimeter at ground floor level', 2) that the use of good quality, non industrial treatments in respect of the service access etc be encouraged, 3) that the horizontal emphasis to the western elevation be amended to reflect a more vertical character, and 4) that more thought be given to the potential of the top floor of car parking to collect solar energy through light weight screens/pergolas with integrated PV's/car charging which would have the added advantage of screening the visual impact of the cars.

The location of the entrance was considered an improvement as was the repositioning of the car park ramps. The treatment of Paradise Place should reflect a space to be passed through rather than linger as levels preclude the introduction of active frontages. The use of space here for the storage of refuse to serve the adjacent area thought beneficial. The dramatic change in scale in emerging from the Lanes needs some counterpoint and a tree was suggested. Whilst noting clear improvement to the design, the opportunities for achieving a greater visual integrity through identifying 'variations on a theme' rather than 'relentless variety that ranges too widely' was encouraged and that more 'finesses in architectural expression' would be needed to make this 'large complex a good neighbour and a fitting contribution to the Conservation Area'.

The need to achieve public realm improvements beyond the site and to reduce energy loads was also raised.

### **Brixham Town Council**

The minutes of the Town Council indicate that job creation, additional car parking, extended range of food choice, compatibility with local plan objectives, large capital investment, ease of access, employment opportunities for disabled people, increased number of retail units creating employment opportunities, sympathetic design were raised as issues by members of the public who **supported** the application.

Those **against** the proposal cite insufficient information on the impact of the development on the town, neutral job impact, flawed transport assessment due to timing of the traffic surveys, no detail in respect of impact on existing shops, lack of toilet facilities, insufficient toilet facilities when store closed, height, size and scale of development and impact on character of town, lack of assessment of impact on loss of open space, flood risk, loss of town square, impact on views of top level of car parking, job loss, impact of construction on town, lack of

affordable homes, noise pollution during and after construction, delivery lorry noise, traffic congestion, bus stop size, impact of current economic climate, noise impact on Theatre productions.

Town Councillors raised bus stop and bus movements, reversing vehicles conflicting with oncoming traffic, congestion, need to fine tune plans as **concerns** and achievement of redevelopment, good elevations, increase in housing, alternative to out of town shopping, appearance improved in relation to former multi storey car park and increased car parking as **benefits**.

It was resolved to recommend REFUSAL of planning permission on the grounds of **traffic issues, congestion and safety**.

These documents have been available in the Members Room.

### **Summary Of Representations**

There are strong and impassioned views from the people of Brixham both for and against the proposal.

A petition from BRATS with 2064 signatures and a 'pro forma' letter, some with individualised amendments, signed by 580 people has been submitted objecting to the scheme.

Whilst the number of objections significantly outweighs the number of letters received in support, it is worth noting that the numbers of individually composed letters are similar in number from both camps.

Those who are **against** the scheme raise concerns about the scale of the proposal both physically and in terms of the amount of floorspace to be provided, which it is claimed will be disproportionate to the retail needs of the area and will drain custom away from the town centre to the detriment of its vitality and viability. This, it is stated, will undermine existing businesses, erode the local economy and lead to a loss of 'better' full time jobs. An Economic Impact Assessment is requested by a number objecting to the scheme so that this impact can be tested.

Many consider that there is no evidence of need for the additional floorspace, that they are well served by the existing level of provision within the town, that the nearby superstores in Paignton are accessible and that with reduced spending and increasing reliance on internet shopping, the store will hasten the demise of local shops and ultimately may prove to be unviable. The point is made that Brixham has in recent years found a more vibrant identity with independent traders and creative businesses becoming established and fears that the unique character of Brixham will be replaced with a 'Clone Town' image.

The loss of car parking during the construction period is said to further threaten the local economy and struggling traders. The need to retain the summer Park and Ride during construction is raised as well as the need for a clear strategy to manage the disruption caused by construction traffic and loss of car parking.

The impact on the character and appearance of the town arising from height, mass, extent of footprint and the box like form of the building is also of concern to respondents, with Brixham's quaintness and special architectural character felt to be under threat. The impact on Paradise Place and the height of the development on Middle Street highlighted.

Concerns are also expressed about the accuracy of the Townscape Assessment and uncertainty about the impact on important public views. It is requested that an observed lack of levels and dimensions on the plans be rectified prior to reaching a decision.

Those objecting also raise the loss of the Town Square and the loss of pedestrian routes across the site as an issue, stating that this will rob the town of its only public space and fail to achieve an integrated town centre. Suggestions have been made about retaining car park as a public space for Farmers Market and events more in keeping with the character of the town or using the new roof space for more community based activities.

Generally, a number of representations stated that a smaller, more organic, sympathetic development, which responded more effectively to the most recent DRP comments about architectural language would be better supported.

In terms of the residential units, those in objection state that they are poor in terms of design and amenity, being single north facing aspect with no gardens. The units are also said to be unaffordable and not helping to meet local housing needs.

Respondents are concerned that Bolton Cross will be overwhelmed, local roads will be choked with traffic, that increased deliveries will exacerbate congestion and road safety. The proposed revisions to the junction are thought to be damaging to the gateway to the town. The timing of the TA surveys in October is thought to underestimate peak traffic impact.

It is suggested that the realignment of the bus bay will lead to buses impeding traffic flow as 2 buses are not able to occupy the 'new' bay. The proximity of the vehicular access to the service area and the new bus bay is thought to endanger pedestrian safety. Poor provision for disabled customers has also been raised along with the suggested failure of the scheme to meet the town's car parking needs, as the car park will be occupied by Tesco customers.

The following matters were also raised as concerns.

- The scheme will exacerbate flood risk.
- Reduction in energy loads and sustainability credentials have not been demonstrated.
- Loss of toilets and limited access to replacement ones within the store raised as a concern.
- Plea that S106 money should be spent in Brixham and not used to bolster Councils budget.
- Referendum needed to determine whether local people wanted this.
- In addition, there were specific comments from neighbours to the site about access for emergency vehicles, location of substations.

**Stan Bolt Architects** submitted a 'constructive critique' of the design and its impact on the character of the town. This raises concerns about the size of the building, its lack of permeability, the impact of the roof and whether alternative approaches might be more sympathetic, lack of local distinctiveness and detailed points about public transport provision, servicing and use of the car park.

**Supporters** of the scheme cite the need for urgent investment in the town and that the current decline needs to be reversed. This opportunity in the current market should, it is felt, be grasped. The ability of a major food store to anchor the town centre and generate wide ranging benefits in the local economy should not be dismissed. It is thought that the footfall within the town centre would be greatly increased and local traders would benefit. Many explain that they travel out of town to shop but would shop locally if this store went ahead and that they would make more use of existing shops and services within the town centre. The consequent reduction in food journeys and CO2 emissions is welcomed.

It was thought that the proposal would rejuvenate the town and it would attract visitors in and encourage locals to use their town centre. One local trader thought it would create confidence and secure wider investment as more people would be attracted to the town. Another respondent indicated that he would chose to invest only if the application was approved as it would bring customers into town. The availability of a wide range of produce at competitive prices which would also 'sharpen up' existing levels of service, is also thought to be beneficial.

The creation of new jobs is welcomed, particularly for the many young unemployed people in the town.

The provision of improved car parking and with a period of free parking would add to the attraction of the town. It is urged to increase the time from 1.5 to 2 or even more hours for maximum draw.

The design of the scheme was thought to be sympathetic and a big improvement on the current condition of the site. The scheme is thought to respond well to the character of the conservation area in terms of design and appearance now that the facades are more sensitively handled. The redevelopment of the site would help forge links between Middle Street and Fore Street creating a more cohesive shopping centre.

The opportunity for improved, more affordable, local food shopping is welcomed particularly by elderly and disabled shoppers who feel they currently have no choice but to pay higher prices for their weekly shop.

The opportunity to improve flood risk is welcomed.

New homes are welcomed.

The availability of 24 hour, manned car parking is also thought to be beneficial to the evening economy. This could enliven town and increase feeling of security.

Support for Tesco's green credentials if similar specification to Kingsbridge Store.

All these representations have been available in the Members Room.

The **Statement of Community Involvement** describes public consultation undertaken in relation to this scheme. This identifies that of the people who completed the survey, 75% of people do not carry out their main shopping in the town, 65% said the proposal would encourage people to shop in Brixham and overall, 62% support the proposal and 34% do not.

### **Relevant Planning history**

The future of this site has been under active discussion for many years and various iterations of the scheme have been exposed to public scrutiny and considered by the Design Review Panel. The most recent comments from the DRP will be examined below in relation to concerns about design and relationship to the character of the town.

### **Key Issues/Material Considerations**

As can be seen from the nature and scale of the comments received there are many broad issues:

1. Impact on the shopping function of the town centre.
2. Impact on the character and appearance of the Conservation area.

3. Impact on Bolton Cross, surrounding highway network and servicing.
4. Impact on air quality.
5. Impact on Flood Risk.
6. Impact on contaminated land.
7. Eco Efficiency Measures.
8. Neighbour Amenity/Quality of residential accommodation/Affordable homes.
9. Toilets
10. Public Rights of Way and stopping up of Union Lane.
11. S106/ Mitigation

### **Impact on the shopping function of the Town**

It has long been recognised that Brixham underperforms as a shopping centre. The need for additional floorspace was originally identified in the Hillier Parker Study 1994 and in the 1998 update, which considered that there was at that time a need for 1400-1800 m<sup>2</sup> [15-20,000ft<sup>2</sup>] net of new convenience floorspace to underpin and support the retail function of Brixham town centre.

This site was identified to help meet that need in the form of a 'small to medium sized food store and a small number of new units of a modest scale selling durable goods' [**Policy S5.4**]. The site was also required to deliver residential accommodation (**Policy H1.18**) and replacement car parking facilities (**Policy T6.4**). The explanatory text to the relevant policy requires the development to present an attractive frontage to the new town square and to strengthen pedestrian links between Middle Street and Fore Street, and into Pump Street and the Strand.

It also requires shopping developments to 'demonstrate an efficient use of space, a contribution to the enhancement of the appearance, diversity, vitality and viability of the town centre and to be of a size and scale appropriate to the centre in which they are located'. The text goes on to say that further relevant considerations will include the amount of retail floorspace proposed, the location of schemes in relation to the primary and secondary shopping frontages, siting, design, landscaping, impact on townscape and on residential areas.

This requirement was wholly in line with National Planning guidance at the time as enshrined in PPG6 and its subsequent iteration, PPS4.

The **GVA Retail Capacity Update 2011**, commissioned in response to changing economic conditions and evolving retail planning guidance continues to support the need for new convenience floorspace in Brixham Town Centre. It draws attention to the fact that there is a significant leakage of convenience and comparison shopping trips with Paignton being the main beneficiary.

Para 4.22 of this study indicates that Brixham is only able to retain 16% of first choice main food shopping trips and 29% of second choice shopping trips. This loss of expenditure is confirmed in the more recent surveys carried out by the applicants during public consultation exercises and included in the Statement of Community Involvement, which identified that 75% of respondents did not carry out their main food shopping in the town. This suggests a huge scale of spend being diverted to other centres and the lost opportunities for linked trips to be carried out within the town. Retaining this spend within the town centre and

encouraging and facilitating linked trips to other stores on the high street has the potential to be beneficial to the economic base of the town centre. .

Para 4.64 confirms that a new supermarket would help retain main shopping trips within the town and that this would have positive benefits for the local economy. It also identifies [para 7.4] that within the convenience goods sector, the most pressing need is for new floorspace within Brixham and how important this is in attempts to stem leakage. The applicants own survey identified that 65% of residents would be encouraged to carry out their shopping locally if the store were built.

The GVA report does say however that Brixham performs well in terms of top up shopping with 80% of first choice top up trips and 72% of second choice top up trips being retained within the town.

In terms of future capacity, the GVA study indicates a need for around 2000m<sup>2</sup> by 2031 assuming the construction of the foodstore proposed in the Adopted Local Plan. In identifying a future role for Brixham, it indicates that a 'key change for the future could well be the development of a large foodstore which would retain a larger number of main and top up food shopping trips and have the potential for positive spin off benefits for other parts of the town centre'

The applicant has submitted the findings of a research project carried out in 2010 by Southampton University and funded by Tesco's to support the contention that supermarket development can have a positive effect on the local economy. The report was designed to explore the impact of planning legislation which has increasingly sought to concentrate retail development within town centres and involved rigorous impact studies conducted between 2007 and 2009.

The major conclusion of the research is that supermarkets can and do enhance trade clawback and increase the overall attractiveness of the locations in which they are based. The study further argues that supermarkets acts as anchors which can help stimulate additional trade in local shops via linked trips and these effects are seen as crucial in enhancing vitality and viability of town centres. The study showed that in all 6 centres studied the numbers of residents travelling to more distant food shops fell by more than a half. The report indicates on average a near 70% claw back of food shopping and also cites a significant increase in 'pulling power' as residents from surrounding catchments are drawn to new food store developments. Up to 68% of respondents were found to combine visits to the food store with visits to other shops or services in the centre. It also found a decrease in car use for shopping and increase in walking.

The applicant has supplemented their economic case in support of the application by assuming [conservatively] 30% linked trips with an average spend of £5 in the town centre which would yield an additional 0.5 million spend in the town. The results of the Southampton study would suggest it could be substantially higher than this.

Importantly, feedback from Traders surveyed in the research was positive and there appeared to be little support for the fear that such development decimated existing centres or their retail diversity.

BRATS have submitted a critique of this study from the Oxford Institute of Retail Management. Whilst the authors conclusions are largely positive- considering the confirmation of the benefits that supermarkets can bring as 'common sense and unsurprising'- it does suggest that conclusions in respect of traders fails to reflect the variety of views expressed by traders, particularly convenience retailers, who felt most affected by food store development. It also felt that the time frame for evaluation of impact, i.e. 12 months was too short.

The Mary Portas Review into the future of our High Streets (December 2011) emphasised the importance of securing investment in Town Centres and how much such investment had declined in the face of competition from out of centre developments and on line shopping. Her recommendation to ensure that there was a presumption in favour of town centre development in the NPPF has been followed up.

In March 2012 the National Planning Policy Framework [NPPF] was adopted. At the heart of this is the need to promote 'sustainable development' and 'economic growth'. It includes a presumption in favour of sustainable development and in relation to shopping; the NPPF promotes a 'Town Centre First' approach.

The new Local Plan [consultation draft] reflects this approach and confirms that town centres will be the primary destination for new retail development in order to secure the future vitality of these important areas.

The Adopted Local Plan supports the development of a foodstore on this town centre site, the new Local Plan prioritises Town Centre locations for retail development; the most up to date Retail Capacity Study identifies the need to stem leakage from Brixham through new food retail development in the town. There is a presumption in favour of sustainable development embodied in the NPPF and a 'town centre first' requirement for shopping development. There is little doubt therefore that the development of this site for a food store is in line with the Local Plan and national planning guidance in the NPPF.

Central to many objections to the scheme however was the issue of 'need' and the excessive size of the proposal. These formed 'tests' for the suitability of retail development under earlier planning guidance as reflected in the justification to policy S5.4 in the Adopted Local Plan.

However, the necessity for applicants to demonstrate a 'need' for a proposal was deleted from national planning guidance with the introduction of PPS4 which has now been replaced by the NPPF. Having said that, the work carried out by the Councils consultants GVA, demonstrates that there is significant capacity within the town for additional floor space that would improve the market share and claw trade back into Brixham..

Under the new guidance in the NPPF it is no longer a requirement to demonstrate an 'appropriate scale' of development or to carry out any kind of retail appraisal to demonstrate impact if the development is within the defined centre. These are only required for 'edge of centre' or 'out of town' proposals. It instead emphasises the need for town centres to be 'competitive' providing 'customer choice, and a diverse retail offer which reflects the individuality of town centres'. Successive Retail Studies and the adopted and emerging Local Plans have promoted the need for a food store in Brixham to anchor and underpin the economic function of the town centre. That significant spend is lost to nearby towns is not disputed. What is necessary therefore is to ensure that linked trips are facilitated and encouraged and that the design of the store responds well to the character of the town. In this way, the town centre will be able to compete more effectively with its neighbours, retaining spend will help achieve a more buoyant local economy and, if the design is appropriate, it will respond to the individuality of the town. These matters are covered in some detail in the body of this report.

Despite the lack of support in policy terms for matters of 'scale' or 'need' in town centre locations, the benefit to Brixham for a 'medium' sized food store [up to 1800m<sup>2</sup> net] has been long recognised and indeed, the most up to date GVA study indicates a likely requirement for a 'large' store to help Brixham compete.

The proposed store has a net overall floorspace of 2,791m<sup>2</sup> but the level of convenience sales [i.e. food sales] is to be restricted to 1860m<sup>2</sup> through the land agreement and through a planning condition. Thus the level of food sales to be provided is considered to be within the parameters of what has long been shown to be required, particularly given that nearly 20 years has passed since this was first identified.

It is helpful also to consider the size of the store in relation to existing food stores within the Bay. The inclusion of all servicing, office and storage space within the envelope of the building makes it seem perhaps bigger than it is. It is about 4/5ths the net size of the Sainsburys store in Paignton and on this basis it is considered that fears expressed about the size of the store, whilst understood are perhaps unjustified.

This scheme also delivers the same car parking levels the town used to enjoy with the former multi-storey car park and this will benefit the whole town significantly. The car park will be managed on a short stay basis the details of which are included in a car park management agreement. This will deliver 24 hour car parking and include 1.5 hours free car parking if a small purchase is carried out in the store. This device is used in many town centre food stores to help encourage linked trips. There have been strong representations for this to be increased to 2 hours free car parking as it was thought this would more likely encourage additional spending in the town. Whilst this has not proved possible to achieve at this stage, the car park management plan is subject to review (with a built in 6 month review period) and particularly in the quieter winter months when the pressure on spaces is less, it may be possible to pilot a longer free parking period. The car park will work on a number plate recognition system of barrier controls so if a shopper does decide to 'go over' the free period it will be easy to pay the difference.

Clearly the short term loss of the existing 170 spaces is of critical importance to traders. Many objectors felt this would be a 'nail in the coffin' in current economic circumstances. In order to compensate for this, shuttle buses will be funded to ferry shoppers from outlying car parks to the town centre. The applicant has offered £15,000 towards this but detailed costings are not available to establish how far this will go and it may have to be supplemented with S106 money. In addition the timing of the build programme will be, as far as possible, designed to avoid impact in busier summer months. It is anticipated that the car parking spaces will be removed from use and the new spaces made available on a phased basis to minimise the period of time when parking is not available. Details of this will be required by condition.

It is also important to consider the benefit to the local economy arising from the creation of jobs. The applicants claim the proposal would create around 170 jobs with 160 likely to be created within the food store and up to 16 in the A1/A2 retail units. Many objectors felt that little in the way of new jobs would be created and that they would be largely part time, be siphoned off from the existing employment pool or would exacerbate employment problems as existing traders went under. Others felt that the opportunity for jobs in a town that suffers high youth unemployment should be grabbed. It is impossible to predict the exact levels of job creation but if the conclusion of the GVA Retail Capacity Update and the Southampton University Study are reliable then the store will have a beneficial impact on the local economy through retaining spend in the town. Although the net number of new jobs is difficult to calculate the evidence points to a draw of trade and jobs back into Brixham Town Centre.

Brixham is in need of regeneration and this proposal represents an investment of around £20 million. In the current economic climate with competition from internet shopping and funding difficulties such opportunities in town centres are rare. This proposal would stem leakage to other food shopping destinations, which is demonstrably having a serious impact on the economy of the town and 'linked trips' would be carried out if customers were encouraged to carry out more main and top up shopping trips within the town.

What is important is to ensure that the scheme is positively linked to the town centre, that opportunities for more sustainable means of accessing the site are developed, that the scheme acts in a way to link, improve and reinforce what is currently a disparate town centre and the car parking strategy is designed to encourage linked trips through maximising stays. How these things can be achieved will be addressed in subsequent sections of this report

and if successful, it is likely that the store will add to rather than detract from the economic function of the town centre.

### **Impact on the Character of the Conservation Area.**

The site was most recently occupied by a multi level temporary car park which was removed for structural reasons leaving a tarmac surface car park. The site is centrally located between Fore Street, which is the main shopping street and Middle Street which is also within the defined town centre. In its current condition it has a negative impact on the character of the Brixham Town Conservation Area within which it is pivotally sited. This Conservation Area is identified by English Heritage as being 'at risk'. A clear design opportunity exists in developing this site to integrate it with the town centre, recreate street frontages and reinforce linkages to the wider area through public realm enhancements and in so doing remedy its at risk status.

The scheme has been a long time in evolution and has periodically stalled due to viability and design difficulties. There have been several iterations of the scheme and as objectors have noted, the proposed store has increased in size since the current applicant became involved in the site from around 35,000ft<sup>2</sup> to the current size. It has also changed in terms of appearance and relationship to context. The proposed uses, comprising a foodstore and car parking do strongly influence the ultimate form of the building. In order to mitigate the appearance of the building, cladding the box with residential uses and smaller shops with active frontages and thus recreating streets was considered an appropriate design response. English Heritage accepts that this, as a basic concept, is the most appropriate way of 'dressing up the box'.

In assessing the acceptability of the scheme and its relationship to the character of the Conservation Area it is necessary to look at the size of the building, its appearance and how well the elevations relate to surrounding buildings, the quality and extent of the public realm works and whether ultimately this succeeds in delivering a scheme that can reinvigorate and re-knit the town centre.

The ES includes a Townscape and Visual Assessment which looks at the effects of the building on individual townscape features, on townscape character and on public views. This considers a series of key views and assesses the degree to which sensitive areas of townscape would be affected. It identifies that for the most part the effect of the development will be neutral although some 'moderate adverse' effects will be experienced in outlook from some adjacent residential properties and from some public view points. The main impact is closing down of views across the currently open site and the study identifies that the main impacts are on views from Middle Street, east along Bank Lane, south along Apters Hill, from the pedestrian steps on Mount Pleasant Road, looking northwards from Windmill Hill, from Garlic Rea and when viewing north west from North View Road. The study also explains that these impacts can be to some degree mitigated by the quality of the scheme in terms of detailing and materials and the degree to which it can re knit streets. If done well, this could result in impacts being beneficial in respect of some key viewpoints.

There is no disguising that the building is large: this is a result of the level of floorspace required to deliver a viable scheme and the need to achieve a level of car parking similar to that lost when the temporary car park was demolished. The 3D modelling included in the Design and Access Statement shows that the building will be clearly visible in the street scene and from surrounding higher ground. It rises about 3 stories above the level of the stone wall along Middle Street and achieves a height similar to that of the properties to the north of Middle Street. However, this is not thought to be of a scale that is inappropriate in the locality and providing the design is sympathetic, it shouldn't appear out of kilter with its surroundings.

Objectors have clear concerns about the size and height of the building, particular concerns relate to how this mass is perceived on the approach to the site from Paradise Place where the narrow tight grained lanes that border the harbour meet a four storey car park. This relationship has been much tested and redesigned in an attempt to ameliorate the impact of the scheme. Similar concerns about visual impact relate to the appearance of the top storey of car parking and its prominence in views.

In terms of footprint, the building extends into the Town Square. This does reduce the facilities in the town for public congregation and erodes opportunities to improve linkages between Middle Street and Fore Street. This is regrettable but alternative linkages have been developed which will compensate to some extent for this.

Key in terms of mitigation is the need to break down the scale and mass of the building and to secure a character and appearance that 'fits' with its surroundings. It is also important to recognise that the roof is a vital 'fifth elevation' and will be visible from swathes of homes on higher ground and from key public vantage points. Even so, the site was for many years occupied by a multi level car park which had a poor interface with the town and exposed car parking to view from higher ground.

Responses to the application in terms of design recognise that improvements have been made during the schemes evolution. EH have no objection in principle but consider that aspects of the design need improving, the DRP requested that the language be 'finessed' and the critique from Stan Bolt Architects drew attention [inter alia] to the lack of local distinctiveness in building forms.

Negotiations have since taken place to try and remedy these shortfalls and improve upon and finesse the architectural language to create more sympathetic facades to the building in order to achieve a 'sense of place'. This would result in a greater level of local distinctiveness in terms of character, plot width, proportions and use of materials. This has secured a more 'well mannered' response to the more formal town scape at the western end of the site (with dressed stone facades incorporating a more ordered composition) and then a slightly more 'robust' industrial character (with random rubble and timber detail) as the scheme progresses towards the fishing lanes to the rear of the harbour.

The rationalisation of window patterns, plot widths and some greater symmetry in roof treatment has resulted in facades which reflect more closely those evident in the existing town scape. A smaller palette of better quality materials comprising natural stone, real slate, timber and render rather than the larger range of more artificial materials proposed in the submitted elevations has also been agreed. In terms of the visual impact of the roof scape, the inclusion of canopies has been agreed and this will assist in screening the impact of high level parked cars from important public views.

English Heritage have described the revisions to the proposed elevations as 'promising' with the potential to help deliver this once in a lifetime opportunity to resolve the missing bit of townscape. It has been difficult to fully resolve these amendments in the time frame, with only hand drawn sketches available illustrating the conceptual approach to be taken at the time of writing the report. This is being extended to cover key parts of the elevation and public realm and progress will be reported verbally. If Members are happy with the broad brush approach, it is recommended that the matter be delegated to the Executive Head of Spatial Planning to determine in relation to the final detail.

In terms of the public realm, the key issues are the creation of links between Middle Street and Fore Street and to the Harbour, the extent of public realm works and the quality of the final scheme in terms of fit, detail and robustness of materials.

The new building includes a defined pedestrian route across level 1 to the top of the travelator which will bring shoppers easily down to Brewery Lane and from there to Fore

Street which will be available on a 24 hour basis via the disabled lift. New steps are to be constructed to the east of the site which will link Middle Street with Paradise Place.

The routes between the store and Fore Street are to be repaved in a material that will tie the new development firmly into its context. This is likely to pick up on the cream star setts which typify the public realm along Fore Street. It is anticipated that the materials and character of finish of Brewery Lane will replicate as close as possible the cobbled granite edged/ dark engineering brick surface evident in Pump Street.

This matches the surface treatment of the Harbour and a common palette will reinforce links and help create a proper sense of place. There is continued discussion on the exact materials as Brewery Lane needs to be able to support commercial traffic as it will serve existing businesses on Paradise Place.

In order to complete the integration of the site with its surroundings it is hoped to extend the public realm works to include Paradise Place/Furze Lane. It is important that this is achieved given the impact that the development will have on this access lane and the specific aim of the brief to reinforce links between the site and the Harbour. It is hoped to achieve as close a match to this common character as possible whilst still ensuring that maintenance liabilities can be met. Again, final details should be delegated to the Executive Head of Spatial Planning for final determination.

### **Impact on Bolton Cross, surrounding highway network, buses and Servicing**

The impact of traffic on the highway network was evaluated in a Transport Assessment (TA). This considers the scale of traffic likely to be generated; its impact on all forms of movement around the site and suggests appropriate mitigation. The matter was also included in the ES and this looks in detail at the specific effects of the scheme on a wide variety of receptors in the long and short term and also assesses the cumulative impacts of the scheme on movement around the site.

The key issues arising are:

- Bolton Cross and Middle Street/Apters Hill.
- Bus Bays
- Servicing
- Pedestrian safety

Bolton Cross junction is the most affected by the proposal. It is a busy light controlled junction. Works are proposed by the Council to increase the flows through this junction. The works involve demolishing Threshers and bringing the stop line on Bank Lane closer to the junction. The reason for this is primarily to speed up traffic flows, reduce stacking distances, cut congestion and improve air quality.

The works are programmed for implementation in 2013, although consent has yet to be issued pending receipt of a flood risk assessment for the replacement building. In addition, funding for the replacement building needs formal agreement before the demolition can go ahead. In relation to the demolition of the existing building, a contract for redevelopment of the site is currently required to be entered into before demolition can take place.

The TA was initially modelled on the Bolton Cross junction improvements being in place. However due to the uncertainty, however slight this may be, of the works not being carried out, the applicants were asked to model the junction and its ability to cope with increased traffic flows based on the existing layout.

There were also concerns about whether the impact on the junction was underestimated. The traffic consultants explain in the TA how food stores generate little new traffic but act to divert traffic already on the network. The Southampton study already referred to identified that a town based store encouraged more residents, especially those within a 5 minute drive time to remain in town to do their shopping, with increasing numbers shopping on foot.

The TA assumed that of the trips diverted from going to Paignton or beyond, some 75% of trips at the weekend and 60% during weekdays would already be passing through Bolton Cross on their way to do the shopping and so the number of new trips passing through the junction would be relatively low. This assumption has been questioned as the geography of Brixham is such that a far lower number of trips to Paignton would of necessity have to pass through Bolton Cross.

A revised TA has been submitted which looks at the capacity of the existing junction and has revised down its assumptions about the number of diverted trips which would pass through Bolton Cross. This more robust assessment which has been subject to 'sensitivity testing' to ensure that it fully recognises the likely scale of new trips, concludes that the junction will get close to its design capacity but not exceed it. It indicates an increase in queue length of 6-7 vehicles which the TA states, is not 'severe'. As the Councils junction improvements are designed to improve air quality rather than to ease congestion per se it is necessary to be cautious about the impact of additional queuing.

It is important therefore that there is certainty about the junction improvements being in place before the store opens. A Grampian condition could be applied to the development preventing it from operating until the improvement works were in carried out. However, the applicants are concerned that this could jeopardise funding. The delay in implementing the junction improvements arises from the need to satisfy a proposed condition on the demolition consent which requires a contract to be in place for construction of the replacement building on the Threshers site before any demolition can take place. If this condition were amended to allow a 6 months period for the contract to be in place, this would allow the demolition works to be carried out and the extra capacity of the junction to be assured.

A request has been received from Highways to reconsider the need for the condition, and if agreed demolition could take place in March ahead of the summer season. As such, it is understood that the applications for the junction improvement works at Bolton Cross will be reconsidered at the committee meeting on 6<sup>th</sup> March.

It is proposed to introduce a 4 arm mini roundabout on the Middle Street/Apters Hill junction to achieve access to the car park and to widen footways on Middle Street. These works are considered acceptable. Other works include the reduction in the size of the Middle Street island to facilitate manoeuvring. The Highway officer is satisfied with these proposals.

The scheme delivers replacement car parking equivalent to that lost when the multi-storey was demolished. The capacity has been evaluated in the TA and it does get close to being full at peak times. There have been concerns expressed that the car parking levels are too low, that they will all be occupied by Tesco customers and that it will generate queuing along Middle Street at busy times. A car park agreement will be in place to manage demand. The car park will be 'short stay' to encourage a rapid turnover. Longer stay parking, which is available on the edge of the town centre needs to be properly signposted. At the moment, 1.5 hours free car parking is to be available if making a small purchase [about £10] in the store. This is designed to encourage linked trips and additional spend in town centre shops. There were suggestions that this should be increased to 2 hours but this may have implications on available capacity during peak times.

The car park will be managed by Torbay Council on behalf of Tescos through a car park agreement which will govern pricing policy, hours of access, general management issues. The access and exit will be barrier controlled and work on number plate recognition. During

store opening hours the entry barrier will be raised so that entry is unrestricted. Evening and overnight barriers will be in place to prevent abuse. Parking will be available 24 hours on level one only.

An area of particular concern to residents, and indeed the primary reason that Brixham Town Council objected to the scheme, is the bus bay/servicing/pedestrian movement arrangement around Bank Lane. The constrained nature of the site coupled with the fixed nature of the ground levels means that it is necessary to accommodate servicing for the store, buses and opportunities for pedestrians along Bank Lane. This means having space for 2 buses, the ability for lorries to manoeuvre around the buses to access the service yard and assurances over pedestrian safety.

However, it does need to be factored into this assessment that the existing car park access discharges into this restricted area some 300 2 way movements an hour during peak times and as part of the proposals the car park access is to relocate to Middle Street, which does considerably ease movement in the area. As such, it is likely that the new arrangement could be less dangerous in terms of pedestrian movements in this area.

The existing number 12 bus bay is located on Bank Lane. Due to the location of the service access, the bus bay has to be modified. The TA detailed how this was to be carried out and 'tracked' bus and lorry movements. Strong concerns were expressed during consultation that this didn't provide sufficient space for buses and the back end of the bus would, if two buses were parked, obstruct traffic approaching from Market Street.

The bus bay was then redesigned to provide echelon parking for two buses and tracked to demonstrate that the buses could occupy the space without obstructing traffic and could leave without having to reverse into oncoming traffic. Stagecoach have confirmed that they could not operate the echelon arrangement as they consider the need to reverse could not be eliminated. Instead they have suggested that the number 12 bays be relocated to Brewery Lane and the remodelled Bank Lane shelter be used for local buses. This will require the provision of a new shelter and widening and resurfacing of the footway along Brewery Lane. This is estimated to cost around £65-70,000 and will have to be met from the S106 monies. It needs to be carried out in a way that knits this area into the character of the development site in terms of materials and street furniture. As such there is a potential advantage that arises from this change to bus bays that will further enhance the public realm in this part of the town centres. These are matters to be dealt with in detail by condition.

The final scheme in highways movement terms represents an improvement on the existing arrangement, which does sometimes result in buses overhanging into the Market Street/Middle Street traffic due to the level of the canopy. In terms of the new Bank Lane bus bay for local buses, this will include provision for a shelter and seating, details of which will be secured by condition.

It has to be demonstrated that the needs of buses, pedestrians and delivery vehicles can all be met without harm arising. The relocation of the car park access is significant in that it removes many vehicular movements from this area. Highways are satisfied that the revised scheme is acceptable. The Environmental Health Officer (EHO) has expressed concerns about pedestrian safety around the entrance to the service yard, but feels that the use of a banksman to supervise use of the access when deliveries are made will overcome this. This will be secured through a Delivery Plan which will govern when and how the site is to be serviced. At the time of writing these matters are being finalised and the outcome will be reported verbally.

In terms of wider pedestrian movement, concerns have been expressed about the loss of permeability through construction of the building and the failure to integrate typical alleyways which characterise this part of Brixham. However, the site was a harbour; it was then developed for a range of industrial uses including a town gas works and finally a car park,

which did not exhibit the network of lanes and pathways elsewhere in the town. The scheme does achieve some improvement on the existing situation in that new steps are to be provided joining Middle Street to Paradise Place at the southern end of the site, a dedicated route through the car park to the travelator and through to Fore Street will facilitate movement across the town centre particularly for people with limited mobility, and Brewery Lane and Union Lane from the store to Fore Street will be resurfaced as will the neighbouring lane adjacent to the Bank.

The pedestrian portion of Union Lane within the car park is public highway and will have to be formally stopped up under a S. 257 order. This can only be done once planning permission is granted.

Objectors have raised the timing of the traffic surveys and consider that this underestimates impact. However, in response the consultants have explained that it is usual to survey at a neutral time of the year and then make adjustments to reflect seasonal variations. Highways and transportation have ratified this approach.

In concluding it is useful to note that the location of a food store in the town centre will secure significant benefits across the wider highway network. Currently around 80% of expenditure is lost to Paignton and Torquay. If it is assumed that 50% of this is clawed back, it can be calculated that the level of vehicle mileage saving is in the order of 8,500 miles a day. This reduces pollution levels and CO2 emissions and it is estimated that it could cut around 1,250 trips through Windy Corner on a daily basis.

### **Impact on Air Quality**

Local Authorities are bound by law to review and act upon air quality concerns where identified and produce an Air Quality Action Plan [AQAP]. The area around the application site is a defined AQMA [Air Quality Management Area] and has been designated as such due to NO2 concentrations. The highest concentration of pollutants is found around Bolton Cross and these concentrations are largely derived from queuing vehicles, buses and general comings and goings. The works to the junction described above will help remedy this. The matter is included in the ES which looks at short term, long term and cumulative impacts of the proposal. This data has been assessed by the EHO who concludes that there may be a need for some additional modelling to ensure that air quality levels are kept within acceptable limits particularly in relation to the residential units on Middle Street and Bank Lane. This is being carried out at the moment and it may be possible to update Members on this verbally.

The main impacts are likely to be during construction but these can be managed through a Construction Management Plan. A condition was required to be applied in the event of permission being granted requiring the possible inclusion of mechanical ventilation in the proposed residential units if air quality was shown to deteriorate. Clearly the most important factor in maintaining air quality is to reduce the reliance on car based use of the site through promoting more sustainable means of accessing the site.

### **Impact on Flood Risk**

The site is within flood risk zone 3/3a which is the highest level of risk. Detailed modelling of flood risk has been undertaken and this is set out in the Flood Risk Assessment (FRA) and the ES. The scheme provides mitigation in the form of a flood storage channel beneath the development, a flood storage tank beneath the proposed store, flood gates to the service yard, re-grading of Bank Street/Brewery Lane to improve conveyance and a FFL to the store of 6.2m OD which is above the peak water levels.

The on site attenuation measures will benefit surrounding properties in terms of the impact of fluvial/tidal flood and on surface water management. The Environment Agency originally raised an objection to the scheme but has since lifted this due to measures introduced to

raise floor levels and revise door positions. Conditions are requested to secure long term maintenance of all key components of the flood alleviation scheme and flood resilience measures for retail units 4 and 5.

### **Ground Contamination**

The site has previously been a harbour, used for gas production and other commercial activities which have resulted in high levels of on site contaminants. These have been assessed in detailed reports from consultants and it is covered in the ES.

It is proposed to construct the store on 'stilts' within the ground to ensure that the contaminants are not disturbed and the creation of a flood relief area beneath the store will create a ventilated void which will be beneficial to the site and achieve some mitigation. The EHO is satisfied that the studies are appropriate and that, subject to conditions relating to the implementation of a detailed remediation scheme, the proposal is acceptable and brings about the beneficial use of a contaminated brown field site.

### **Eco Efficiency Measures**

Food stores are big energy users and it is important that ways of reducing the carbon load through construction and operation are identified. Clearly, its ability to contain shopping trips and reduce food miles is a highly sustainable quality of the store. The green credentials of the store have not been well demonstrated in the submission and as this was a specific request from the Design Review Panel the applicants have been asked to improve this aspect of the proposal. This is to include food sourcing and employment practices that show how sustainability is embedded in the operation of the store and its relationship with the town.

### **Need for Affordable Homes and Quality of proposed residential dwellings/ Impact on Neighbouring Properties**

The ability of the development to provide 14 residential units is an important material consideration, especially as recent appeal decisions suggest Torbay does not have an adequate supply of housing land for the next 5 years. Consequently these units represent a contribution to the 5 year land supply in Torbay and are included on the Council's projected supply of new homes for the next 5 years. In Brixham, where new homes tend to be delivered via a number of smaller sites, a contribution of 14 is considered as important. Torbay Development Agency / Council are currently seeking to purchase these units such that they can be provided as affordable homes to help meet demand in Torbay and Brixham.

Comment has been made about the amenity of the proposed dwellings being single aspect and north facing. However, the Design Review Panel considered the dwellings and considered that the current proposal, with its use of balconies was acceptable.

The EHO has some concerns about the dwellings to be provided at the junction of Brewery Lane and Bank Lane due to its proximity to the service yard in terms of noise and vibration. However it is not thought that this warrants them being deleted from the scheme and a condition requiring soundproofing details is requested.

In terms of impact on existing properties, there will be a reduction in the outlook enjoyed by the residential properties on Middle Street and on Paradise Place that directly overlook the site however, the residual amenity is not dissimilar to many Brixham dwellings. In terms of noise and other possible nuisance during construction, this can be managed through a Construction Management Agreement and during operation impacts can be managed through delivery plans which will govern times of deliveries etc.

## **Toilets**

The existing toilets are to be demolished and replaced within the store. These will be available to non customers and managed by Tesco's. The main concern is the reduction in size and the fact that they will only be available during store opening times. The concern is that the toilets will not be available after 16.00 hours on Sundays when the store has to be closed under current trading laws. If these regulations are eased as was the case during the Olympic Games then the impact would be mitigated. However the applicant has agreed to consider the possibility of the toilets being available when the store is closed through 'designing in' the security that is needed to allow this to happen. Progress on this will be reported verbally. The loss of the public toilets would, however, not provide a sustainable reason to resist the application. The re-provision of toilets within the store has the potential to provide better and more regularly managed facilities that will not incur further public expense.

## **Public Right of Way and Stopping up of Union Lane.**

No existing public rights of way are affected by the development. The application does involve building over the part of Union Lane that is within the car park area. This is public highway and will need to be closed with a stopping up order [SO] once permission is granted. A resident has made an application for a MO [Modification Order] to the definitive map to have this route designated as a public right of way. If a new PROW is demonstrated and permission is granted then the newly registered path would have to be subject to a stopping up order to extinguish or divert the path before the development could be carried out. The Council cannot confirm a SO which is opposed: this would be a matter for the Secretary of State.

The applicant for the MO has requested that this application be 'adjourned' pending resolution of his application. Legal advice confirms that the MO application is separate to the planning process; it is however material to the consideration of the case to consider whether there is alternative provision for access to be accommodated within the scheme and how satisfactory this may be. As has been explained, a new dedicated pedestrian route within the car park does facilitate access from Middle Street to Fore Street, existing routes are to be resurfaced and improved and new steps are to be provided linking Middle Street to Paradise Place/ Brewery Lane. It is thought this is adequate replacement for any rights of way that the public currently have on foot over the site.

## **S106 Contributions**

The S106 agreement covers development related matters that can not be properly dealt with by conditions and also financial contributions to mitigate the impacts of the proposed development.

In terms of S106 contributions, the residential scheme is to deliver the following level of contribution which is in line with the adopted SPD.

Waste	<b>£ 700</b>
Sustainable transport	<b>£ 35,410</b>
Stronger Communities	<b>£2,550</b>
Education	<b>£14,880</b>
Greenspace	<b>£28,660</b>
Life long Learning	<b>£ 5170</b>

The food store will deliver £207,930 in terms of sustainable transport contributions. Therefore, in total, £243,340 will be available for sustainable transport improvements in the town centre.

It is considered that the car park agreement should also form a part of the S106 due to the interrelationship between the planning ambition to promote linked trips and the use and management of the car park. An undertaking not to reclaim unspent money in relation to possible HLF bid required.

Comment has been made that the contributions must be delivered in Brixham and not used to 'fill the Council coffers'. The following section will detail how this money will be spent to directly address the impacts of the scheme.

### **Mitigation**

The report has addressed how the site specific matters such as design, traffic, flood risk, air quality and ground contamination can be mitigated.

However, in terms of the long term vitality and viability of the town centre it is important to ensure that the benefits of the store are realised and to understand and act upon matters that otherwise may have an adverse affect on the economic base of the town centre.

As has been discussed, short term impacts arising from the loss of the existing car parking can be mitigated by the use of shuttle buses to deliver customers into the town centre. Signage can be improved guiding customers to alternative parking places. The applicant has offered £15,000 towards this but detailed costings are not available to establish how far this will go. It may have to be supplemented with S106 money. It will be subject to review to ensure that it is effective and worthwhile.

Car parking spaces will be removed from use and the new spaces made available on a phased basis to minimise the period of time when parking is not available. A timetable for this will be secured by condition.

Once up and running, the car park will replace lost parking capacity and will deliver free parking for 1.5 hours to facilitate linked trips and encourage spending in the town centre.

The opportunity to improve bus provision by relocating the number 12's to a new sheltered bay on a widened and resurfaced Brewery Lane and using the new Bank Lane bay for local buses will be an improvement on the existing situation. There will be new shelters, seating and signage provided as part of the scheme. This will be funded from the S106 pot.

The scheme will deliver improved areas of public realm that will integrate the site with the wider town centre and allow access from Middle Street to Fore Street via dedicated route within the car park and construct new steps from Middle Street to Paradise Place. The applicant is to fund those areas of public realm included within the red line including Union Lane and the unnamed lane adjacent to the Bank. It is thought that there is scope to simplify the range of materials currently shown to more closely knit in with the existing palette of hard surface materials. The reduction in costs may allow more extensive treatment than currently allowed for.

There is uncertainty over the Paradise Place/ Furze lane public realm improvements which will connect the site with the harbour. Whilst it is important that these are carried out, it will be expensive to do and its use by commercial operators raises questions about how sensible it is to do in the short term.

It is hoped that simplifying the palette of materials in relation to the public realm could achieve savings of up to £20,000 which could help fund a longer term Heritage Lottery bid. If this is not possible, a bid could be funded with S106 money. A HLF bid could secure a range

of improvements to the physical environment around the Lanes and kick start regeneration of this area. It is also thought sensible to divert the greenspace contribution of £28,660 arising from the residential scheme to partner this money to further encourage regeneration. In a town centre environment devoid of greenspace, harder urban spaces and public realm arguably play a similar role in terms of access to and enjoyment of space. The use of this money to deliver more extensive and better quality public realm is considered acceptable. The applicants have undertaken not to exercise their right to reclaim money not spent within 5 years as it will form part of a longer term regeneration strategy that will enhance the wider area.

It is also critical to look at promoting sustainable movement to reduce the impact on the highway network generally and specifically Bolton Cross. This will largely derive from the S106 STC money that the scheme will deliver. This amounts to £243,000 which is a significant amount that can deliver improved bus services, enhanced pedestrian and cycling opportunities, increase public realm linkages and could help fund the fast ferry which is considered to be of major benefit as it would deliver tourists directly into the town thus relieving Bolton Cross and helping to maintain air quality. The priorities for spending this money will need to be evaluated in some detail and direction on the priorities for this money is requested from the committee.

In terms of a bigger picture, the reduction in food miles of 8,500 miles a day and 1250 less trips on a daily basis through Windy Corner is a sustainability win.

## **Conclusions**

The proposed development occupies a highly sustainable location in the heart of Brixham Town Centre and the site is allocated under Local Plan policy S5 for new retail development. Paragraph 6.24 of the Local Plan confirms capacity for up to 20,000 sq.ft.net of convenience floor space to be provided within the town centre. The convenience element of the application is close to this figure.

An ES has been prepared to provide sufficient information about the environmental impacts of the proposal and this indicates that impacts are capable of mitigation.

This scheme has split the town with both sides equally concerned about the future of the town centre. Those in favour of the scheme contend that this proposal will pump money into the town, achieve regeneration, provide jobs, secure investment in the fabric of the town that will be otherwise difficult to come by, provide increased choice and more competitively priced food and, through linked trips, secure a brighter future for the existing traders.

Those against feel that the scale of the proposal will dominate the town physically, damaging its special character and economically drawing trade away from the existing town centre. The concern is that the loss of existing jobs, closure of existing outlets and traffic congestion will lead to the further deterioration of the town centre.

Town Centres are clearly struggling and face a 'perfect storm' created by the lack of funding, concerns about consumer spending, the rise of internet shopping and competition from out of town retail developments. This scheme has been long in fruition and its viability has been affected by these ongoing uncertainties. It is an expensive site to develop due to the need to remediate the contaminated land, to mitigate flood risks and to cloak the building to create active street frontages. The applicants are quite clear that this is the size of scheme that is required to make delivery of this town centre scheme viable.

There are clear, documented benefits arising from town centre retail development in terms of claw back and retaining in centre the significant amount of spend that currently diverts to out of town stores in Paignton and Torquay. The need to significantly increase the level of retail space in the town if it is to compete with nearby towns is documented in successive retail studies and proposals to deliver it embodied in the adopted and emerging Local Plan. In

terms of national guidance, the NPPF heavily promotes a 'Town Centre First' approach to achieve sustainable economic growth.

Town Centre regeneration opportunities are increasingly rare in the current climate. They are complex projects and in a constrained and attractive environment it is unsurprising that strong views exist about the costs and benefits of the proposal.

It is considered that the impacts of the store have been evaluated and mitigated as far as is possible:

- The cloaking of the building has been developed to create a stronger 'sense of place', greater cohesion with the character of the town and to reflect the changing context around the site. A more locally distinctive natural palette of materials has been agreed. This helps satisfy EH concerns about 'contextual sensitivity' and the DRP's pleas for 'architectural finesse' and helps mitigate concerns about impact on the townscape.
- Public realm enhancements will deliver greater integration and encourage and facilitate pedestrian movement between the store and the town centre.
- Car parking levels are increased and the 1.5 hours free parking is designed to encourage linked trips.
- Phased implementation of the car park and use of shuttle buses will help mitigate the loss of car parking during construction.
- The opportunities for bus use are enhanced by the relocation of the number 12 bus bay to a widened and resurfaced Brewery Lane. Signage seating and shelters will upgrade both Brewery Lane and Bank Lane bus waiting areas.
- Junction improvements will ensure that additional traffic flows are catered for.
- Sustainable transport improvements such as enhanced bus services, cycling improvements or part funding the fast ferry service will help ensure more sustainable access to the site can be encouraged.
- A Heritage lottery bid can be funded to help regenerate and improve the area between the site and the Harbour
- A contaminated brownfield site will be remediated and flood risk issues for adjacent properties be reduced.

For these reasons it is considered that the benefits of the proposal to the town far outweigh the residual impacts of the scheme and permission should be granted.

### **Recommendation**

Approve: subject to the receipt of revised plans to illustrate the agreed finessing of the elevations and public realm, the conclusion of a S106 agreement at the applicants expense, to achieve the matters itemised in the body of the report and to conditions to secure the following:

1. 1:20 details of key features.
2. Samples of materials.
3. Details of public realm: extent and surface materials.

4. Requirement to implement agreed highway works/bus bay changes.
5. Restriction on convenience/comparison floor space
6. Air Quality Monitoring to be undertaken and inclusion of mechanical ventilation to proposed residential units if shown to be required.
7. Delivery Service Plan to include hours of delivery, use of banksman to supervise access.
8. Construction Environment Management Plan to cover related impacts during construction.
9. Programme of phased implementation of car parking spaces.
10. Details of revised bus bays including shelters, seating, signage,
11. Details of landscaping and boundary treatments along Brewery Lane.
12. Existing and proposed levels across the site tied to agreed OD level.
13. Sustainability Audit.
14. Extent of land contamination and implementation of Remediation Strategy.
15. Details of Waste storage.
16. Soundproofing measures in relation to units 11-13.
17. Details of any external plant including noise levels.
18. Maintenance of flood defence measures and flood resilience measures in relation to retail units 4 and 5.
19. Archaeology.
20. Details of boundary wall along Middle Street including sample panel of natural stone
21. Implementation of Travel Plan and review.



**Application Number**

P/2012/0911

**Site Address**

2 Fore Street  
Brixham  
Devon  
TQ5 8DS

**Case Officer**

Mr Scott Jones

**Ward**

Berry Head With Furzeham

**Description**

Demolition of 2 and 2A Fore Street; junction realignment and replace with 2 ground floor retail units and 2 first floor apartments

**Executive Summary**

The proposal is to demolish the existing property at 2 and 2a Fore Street on Bolton Cross in Brixham and widen the junction. This will enable the resolution of air quality and traffic congestion concerns. The proposal also includes the replacement with a smaller property to ensure that this important nodal point and corner feature retains distinction and definition, and provides enhanced legibility.

The proposal is similar to the previously approved scheme (Ref: P/2011/1192) and in the absence of any significant change in circumstances it is recommended for approval.

**Recommendation**

Conditional Approval; subject to the receipt of a satisfactory Flood Risk Assessment and the withdrawal of the Environment Agency's objection. Conditions at end of the report (to be delegated to officers to complete to ensure any relevant flood risk related conditions can be added post resolution).

**Site Details**

Bolton Cross is significant in terms of Brixham's townscape and is located within the Brixham Town Centre Conservation Area. The junction signifies a key gateway to the town centre. The building at No 2 and 2A Fore Street forms part of a terrace of properties on the corner of Bolton Cross, linking Fore Street and Market Street. The ground floor consists of a retail unit, previously occupied by Threshers off-licence, whilst the upper floors consist of 3 self contained apartments. There are a number of listed buildings adjacent or close to Bolton Cross including The Bolton Hotel,

Brixham Town Hall, Market Hall and Museum and Corner House on New Road.

### **Relevant Planning History**

The most relevant planning history relates to applications for the demolition of the building and its replacement, which were approved in 2011.

P/2010/1189            Demolition of 2 and 2A Fore Street. Approved. 22.03.2011  
P/2010/1192            Demolition of 2 and 2A Fore Street; Alterations and works to form junction realignment; formation of new ground floor retail and 2 number first floor apartments. Approved. 08.03.2011

### **Relevant Policies**

Adopted Torbay Local Plan (1995-2011)

T6     Brixham Town Centre Improvements  
T7     Access for People with Disabilities  
T20   Road Improvements  
H3     Residential Accommodation in Town Centres  
T25   Car Parking in New Development  
S3     Primary Shopping Frontages  
BE3   Shopfront Design  
BE1   Design of New Development  
BE5   Policy in Conservation Areas  
BE6   Development affecting listed buildings  
BE9   Archaeological Assessment of Development Proposals  
NC5   Protected Species  
EP1   Energy Efficient Design  
EP11 Flood Control  
EP4   Noise

Proposals Map: T6 Brixham Town Centre Improvements, T24 Traffic Management Zone, T4, T5, T6 Environmental and Access Improvements, S1, S2, E2 Town Centre, S3 Primary Shopping Frontage and BE5 Conservation Area.

### **Proposals**

The application has been submitted on behalf of the Council and seeks the junction realignment and demolition and replacement of a ground floor retail unit (former Threshers) and three first floor apartments with a ground floor retail use and two first floor apartments. These buildings are now owned by the Council. The replacement building will stand at a similar height although will be set back from its current footprint to allow the junction realignment. A widened footway will be provided in front of the proposed replacement building.

### **Consultations**

*English Heritage:*            No objection, EH Consider that the application should be determined at the local level. Their comments are re-produced at Page B.200.

*Environment Agency:*        Holding objection due to the lack of a Flood Risk Assessment and because the site lies within Flood Zone 3

## **Representations**

Brixham Town Council recommend approval.

## **Key Issues / Material Considerations**

Since the only consideration that has changed following the 2011 approval (P/2010/1192) is the minor alteration to the design of the replacement building, to enable the retention of the light well running down the centre of the building, the recent approval in 2011 for the replacement building is a very material consideration in this case.

This proposal retains the design approach that was approved in 2011. Furthermore, the submission retains the same considerations as the 2011 application, these are: i) the impacts on adjacent listed buildings and the Brixham Town Centre Conservation Area; ii) air quality and highways.

### *Impact on adjacent listed buildings and the Conservation Area*

The existing building at 2 and 2A Fore Street is not listed, however, a number of listed buildings are located in the immediate vicinity, including The Bolton Hotel, Brixham Town Hall, Market Hall and Museum and Corner House on New Road. Therefore new development on the site will have an effect on the setting of those building and indeed on the character of the Brixham Town Conversation Area.

A number of documents accompany the Planning Application, including the Statement of Reasons, a Planning Supporting Statement, a Heritage Statement, a Townscape Appraisal; and a Design and Access Statement. These documents note that the existing building at 2 and 2A Fore Street is not listed and does not possess any particular architectural or historical significance. However, the documents do note that the building does have some townscape merit in terms of its prominence as a corner feature and is typical of the traditional building style in the immediate area and therefore adds to the character of Fore Street and Brixham Town Centre.

The top end of Fore Street includes 19th century three storey terraced buildings with paint rendered and slate pitched roofs, which all add to the area's character. The current building forms part of this terrace although the shop and residential accommodation are vacant. The building is characterised by two distinctive turrets with one located at the corner of Fore and Market Street, and another at the junction of Market Street and Bank Lane. These are prominent features and are characteristic of the existing surroundings where a number of other similar turrets exist at 5 and 9 Fore Street and at Saxon Heights on New Road.

The plans show the proposed replacement building at 2 and 2A Fore Street as a three storey building with a shop at ground floor level and two apartments above at first and second floor levels. The height would be similar to that of the existing, however, the footprint would be reduced by half in order to accommodate the widened highway at Bolton Cross. The replacement building is similar in scale to that of the existing and other traditional buildings along Fore Street and Market Street.

The Planning Supporting Statement confirms that the new building would be a high

quality contemporary building which would reinforce the street corner and maintain its purpose as an important landmark at this local gateway to the town centre. The plans show the incorporation of turrets at the same locations as the existing at Fore and Market Streets and above the entrance to the new shop at the corner of Market Street and Bank Lane. Discussions are continuing with the architects to finesse the design of the main corner turret at Fore Street.

A rendered finish with a slate roof characteristic of Brixham's townscape is proposed, which would allow the integration of the building with the surrounding buildings. The fenestration arrangement would also match the pattern and scale of the existing building. However, the fenestration to the main turret differs to the remainder of the building and is part of ongoing discussions between officers and the architects of this scheme on the finessing of the detailed design. Consultation will continue with English Heritage to ensure that the final design is acceptable. Subject to the revision to the design of the main corner turret on Fore Street, it is considered that the new development would respect the existing grain and massing of the historic townscape, filling the remaining footprint between Fore Street and Brewery Lane.

In terms of the use of the building the opportunity for retail activity (albeit with a reduced floor area) will remain and the upper floors will remain as 'living over the shop' accommodation and will create two affordable units of modern residential accommodation in Brixham Town Centre.

#### Air Quality & Highways Considerations

The situation at Bolton Cross contributes to Brixham Town Centre's poor air quality and its subsequent designation as an Air Quality Management Area (AQMA), as noted within the Torbay Local Transport Plan (2006-2011). There is a need to improve the air quality in this area and it has been demonstrated that the proposed scheme does this by alleviating the extent to which traffic is stacking and stationary at this junction.

The air monitoring results for Brixham Town Centre, gathered by the Council, show significant rises in pollutant concentrations, amounting to a 10% rise, year on year at the Town Hall where results are recorded.

Bolton Cross currently operates at capacity in traffic terms during morning and evening peak hours, which is especially severe during the summer months. Market Street is constrained with insufficient width to allow two-way traffic. Traffic signals control traffic in this area which experiences lengthy queues along New Road and Market Street, severe congestion, and lengthy waiting times for pedestrians.

The Bolton Cross Junction Improvement Scheme is included in the Council's Local transport Plan 2006-2011, as approved in March 2006. It is anticipated that this scheme, along with other initiatives such as the Park and Ride service in the northern outskirts of Brixham and improved directional signage and efficiencies in junction signalling will improve air quality and ease traffic movement in the town centre. These measures should assist in ultimately removing the AQMA designation.

A Statement of Reasons report accompanies the application and describes the

alternative options that were considered by the Highways Department to reduce the congestion and associated air quality problems at the junction. Each of the alternative options was discounted due to a lack of viability or a lack of suitability in terms of impact on the town centre environment and/or traders. The alternative options considered include the re-routing of buses, restricted access to buses in the town centre, a greater frequency of park and ride and the part demolition of the Grade II Listed Town Hall.

The preferred option for addressing the current problems at Bolton Cross, which form this planning application, are therefore a result of an evaluation and appraisal exercise which has demonstrated that a number of other alternatives have been considered.

The submitted scheme comprises a revised road layout at the junction that is achieved by the demolition of 2 and 2A Fore Street. The road widening in this area is intended to allow two-way traffic on the Market Street arm of the junction and will allow vehicles to turn left into Market Street at the same time as vehicles turn left out of Bank Lane, consequently reducing congestion and the length of time that vehicles are left idle waiting at the junction. This will allow all vehicles, including buses and HGV's, to pass freely and manoeuvre more easily while enabling better access to the Bank Street interchange and to the town centre.

This scheme of road widening will enable a reduction in traffic signal phases in order to increase vehicle numbers through the junction at any given time period and to allow improved waiting times for pedestrians. A revised kerb line and footway is also proposed in order to improve pedestrian accessibility to the town centre. As a package of measures, this planning application for the Bolton Cross junction proposals, along with the proposed permanent Park and Ride site will assist in achieving the Council's strategy for reducing congestion and improving air quality in Brixham.

### **Sustainability & Floodrisk**

The site is located within Flood Risk Zone 3 and therefore consideration must be given as to future users of the development, ensuring that they will not be placed in danger from flood hazard and that they will remain safe throughout the lifetime of the building. The Council has consulted the Environment Agency and a Flood Risk Assessment has been requested.

### **Ecology**

The results of an Ecological Constraints Survey were submitted in a report which accompanies the application. The survey identified the presence of herring gulls nesting on the flat roof of the adjacent building.

Herring gulls are a protected species and therefore it is proposed to minimise adverse effects on the gulls during redevelopment of the site by including mitigation measures, as included in the Ecological Constraints Survey. These measures include no demolition works during the birds' breeding season, which will also avoid contravention of the Wildlife and Countryside Act, 1981 and avoiding the disturbance

of breeding herring gulls on the adjacent buildings by undertaking any works outside the breeding season. The views of Natural England on this specific issue are awaited.

### **Conclusions**

It is concluded that the replacement building is respectful of the scale and massing of the surrounding townscape, the character of the Brixham Town Centre Conservation Area and the setting of adjacent listed buildings and it will make a positive contribution to the built environment.

### **Condition(s)/Reason(s)**

01. In accordance with the submitted Heritage Assessment, dated October 2010, a Historic Building Recording of Nos 2 and 2A Fore Street shall be undertaken prior to and during the demolition. The recording shall follow the guidance set out in the English Heritage Level 2 standards (2006). The Historic Building Recording shall be submitted to the Local Planning Authority in writing within 3 months of the completion of the demolition. In addition an archaeological watching brief shall be provided on site during the works of demolition.

Reason: In the interests of preserving and recording features of architectural or historic interest and in accordance with policies BES, BE5 and BE9 and BE10 of the saved adopted Torbay Local Plan 1995-2011.

02. The buildings shall not be demolished before a contract for the carrying out of the works of redevelopment of the site has been made.

Reason: To ensure that the character and appearance of the Brixham Town Conservation Area is not prejudiced and to meet the criteria of Policy BE5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

03. No works of demolition shall be carried out during the breeding season for Herring Gulls (April to June).

Reason: In the interests of protecting the herring gulls' nest on the flat roof of the adjacent building which are protected under the Wildlife and Countryside Act 1981 and to meet the criteria of Policy NC5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

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

Reason: To ensure a satisfactory form of development and to protect the character and appearance of the Conservation Area in accordance with Policy BE 5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

05. The ground floor of the development hereby approved shall only be used for Class A1 Retail as defined in the Schedule to the Town and Country Planning (Use Classes ) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.

Reason: Such a proposal would be a separate matter to be considered on its merits and to meet the criteria of Policy S3 of the Saved Adopted Torbay Local Plan 1995 to 2011.

### **Relevant Policies**

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## **Updated Officer Report**

### **Application Number**

P/2012/0911

### **Site Address**

2 Fore Street  
Brixham  
Devon  
TQ5 8DS

### **Case Officer**

Mr Scott Jones

### **Ward**

Berry Head With Furzeham

### **Description**

Demolition of 2 and 2A Fore Street; junction realignment and replace with 2 ground floor retail units and 2 first floor apartments

### **Executive Summary**

This is a proposal for Planning Consent to demolish and redevelop. It is unaltered to that previously considered by Members at the November 2012 Committee, being to demolish the existing property at 2 and 2a Fore Street on Bolton Cross in Brixham and widen the junction, and redevelop. The scheme includes the replacement with a smaller property on the corner to ensure that this important nodal point and corner feature retains distinction and definition, and provides enhanced legibility. The scheme will enable highway amendments to aid the resolution of air quality and traffic congestion concerns.

This scheme to demolish and redevelop was resolved to be approved by the Committee in November (2012) subject to:

- (i) The receipt of a satisfactory Flood Risk Assessment and withdrawal of the

## Environment Agency's objection

(ii) Conditions in regard to;

- (1) Historic building recording prior to demolition
- (2) No demolition until a contract for the redevelopment of the site has been made,
- (3) No demolition during the breeding season for herring birds (April-June)
- (4) Details of materials and finishes to be submitted
- (5) Use class of ground floor to be A1 Retail

The application has not been formally approved, since the Flood Risk Assessment was received on 22 February. Given this hiatus in issuing the consent, the scheme returns to Committee to review progress and seek amendment to the previous resolution, solely in regard to Condition 2.

### ***Flood Risk Assessment***

This has now been submitted and is currently awaiting comment by the Environment Agency.

### ***Proposed amendment to condition***

The Highway Department requests that Condition 02, in regard to the requirement to enter in to a formal contract for the redevelopment prior to demolition, is removed. This request is largely for logistical reasons in order to enable that the demolition be advanced prior to the resolution of the procurement of a contract, which is ongoing but as yet unresolved. The ultimate desire is to afford the opportunity to commence in early spring and ensure that the scheme does not get delayed by the bird breeding season and begins before the main tourism season.

In regard to implications of the revision the previous condition afforded protection to the visual amenities of the area, ensuring that the building would not be removed without resolution of what would replace it. There is however wider planning merit to consider in expediting the scheme to bring forward air quality improvements within the area and relieve pressure at the Bolton Cross junction.

Officers consider that there is merit to some form of relaxation in the wording of the condition rather than its full removal. The suggested re-wording cited below is considered a pragmatic solution that does not stifle the development and bring forward the potential air quality improvements that it is expected without delay. It also offers protection to the visual implications of removing the building.

Having considered the matter officers' have invited the submission of a simpler public art/public realm scheme that would provide a fall-back position for Highways to enact should resolution of the new build scheme not be forthcoming within the 3 months following commencement of the demolition. The public art / public realm scheme would, if required, make good the end wall and provide a small plaza / seating area along with a public art installation.

The proposed wording below is the officers' recommendation, which will enable

imminent commencement of the demolition and the progression of the contractual matters within the next few months.

There are risks associated with allowing the demolition to take place ahead of a contract for the redevelopment, which is why the condition provides for a public art / public realm scheme in the event that the trigger for the re-provision of a building on the site is not met.

English Heritage has provided verbal advice confirming that demolition, ahead of a contract to rebuild, is acceptable. English Heritage has confirmed that it understands the need for an interim solution and would want to be involved in the design of an interim solution.

### **Conclusion**

A revision of the wording of Condition 02 is supported

### **Proposed revised wording of Condition 02:**

Within 3 months of the commencement of the demolition of the building(s) a contract for the carrying out of the works of redevelopment of the site shall have been made, and planning permission shall have been granted for the redevelopment for which the contract provides.

In the absence of the above, within 6 months of the commencement of demolition a public realm solution including the making good of the end walls and the provision of a public art installation and a public plaza, shall be implemented in full, in accordance with detailed plans that shall have previously been submitted to and approved by the Local Planning Authority in writing.

Reason: To ensure that the character and appearance of the Brixham Town Conservation Area is not prejudiced by the creation of a gap on this key site and to meet the criteria of Policy BE5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

# Agenda Item 7



## **Application Number**

P/2012/0910

## **Site Address**

2 Fore Street  
Brixham  
Devon  
TQ5 8DS

## **Case Officer**

Mr Scott Jones

## **Ward**

Berry Head With Furzeham

## **Description**

Demolition of 2 and 2A Fore Street

## **Executive Summary**

The proposal is to demolish the existing property at 2 and 2a Fore Street on Bolton Cross in Brixham and widen the junction. This will enable the resolution of air quality and traffic congestion concerns. The parent application (P/2012/0911) also includes the replacement with a smaller property on the corner to ensure that this important nodal point and corner feature retains distinction and definition, and provides enhanced legibility.

The proposal is similar to the previously approved scheme (Ref: P/2011/1189) for the demolition of the building and in the absence of any significant change in circumstances it is recommended for approval.

## **Recommendation**

Conditional Approval (conditions at end of report)

## **Site Details**

Bolton Cross is significant in terms of Brixham's townscape and is located within the Brixham Town Centre Conservation Area. The junction signifies a key gateway to the town centre. The building at No 2 and 2A Fore Street forms part of a terrace of properties on the corner of Bolton Cross, linking Fore Street and Market Street. The ground floor consists of a retail unit, previously occupied by Threshers off-licence, whilst the upper floors consist of 3 self contained apartments. There are a number of listed buildings adjacent or close to Bolton Cross including The Bolton Hotel, Brixham Town Hall, Market Hall and Museum and Corner House on New Road.

## **Relevant Planning History**

The most relevant planning history relates to applications for the demolition of the building and its replacement, which were approved in 2011.

P/2010/1189 Demolition of 2 and 2A Fore Street. Approved. 22.03.2011  
P/2010/1192 Demolition of 2 and 2A Fore Street; Alterations and works to form junction realignment; formation of new ground floor retail and 2 number first floor apartments. Approved. 08.03.2011

### **Relevant Policies**

Adopted Torbay Local Plan (1995-2011)

BE5 Policy in Conservation Areas  
BE6 Development affecting listed buildings  
BE9 Archaeological Assessment of Development Proposals  
NC5 Protected Species

NPPF Part 12

### **Proposals**

The application has been submitted on behalf of the Council. It relates to the need to address air quality and congestion issues associated with the current configuration of the Bolton Cross road junction. The application proposes the demolition of Nos 2 and 2a Fore Street which are unlisted buildings in the Brixham Town Centre Conservation Area. The application for demolition has been submitted concurrently with the planning application for the redevelopment scheme.

### **Consultations**

*English Heritage:* No objection, EH Consider that the application should be determined at the local level

### **Representations**

Brixham Town Council: Recommend Approval

### **Key Issues / Material Considerations**

Since the only consideration that has changed following the 2011 approval for demolition (P/2010/1189) is the minor alteration to the design of the replacement building, the recent approval in 2011 to the demolition of the building is a very material consideration in this case.

A heritage assessment accompanies the application and this same report was considered and accepted by English Heritage and the Council's Senior Historic Environment Officer during consideration of the 2011 approval. The report confirms that in order to mitigate the impact of demolishing the building, a scheme of historic building recording to document the form, appearance and setting of the structure will be carried out together with an archaeological watching brief during the works.

The proposed demolition is mitigated through the construction of a new building using a design appropriate to the local context and through the improvement of the

public realm around the periphery of the application site.

The results of an Ecological Constraints Survey were submitted in a report which accompanies the application. The survey identified the presence of herring gulls nesting on the flat roof of the adjacent building.

Herring gulls are a protected species and therefore it is proposed to minimise adverse effects on the gulls during redevelopment of the site by including mitigation measures, as included in the Ecological Constraints Survey. These measures include no demolition works during the birds' breeding season, which will also avoid contravention of the Wildlife and Countryside Act, 1981 and avoiding the disturbance of breeding herring gulls on the adjacent buildings by undertaking any works outside the breeding season. The views of Natural England in relation to this issue are awaited.

### **Sustainability**

No issues

### **Crime and Disorder**

No issues

### **Disability Issues**

No issues

### **Conclusions**

The proposed demolition of the buildings represents intelligently managed change to this prominent site within the Brixham Conservation Area and the case for the proposal has been made in accordance with the NPPF, subject to the timely construction of the replacement building.

### **Condition(s)/Reason(s)**

01. In accordance with the submitted Heritage Assessment, dated October 2010, a Historic Building Recording of Nos 2 and 2A Fore Street shall be undertaken prior to and during the demolition. The recording shall follow the guidance set out in the English Heritage Level 2 standards (2006). The Historic Building Recording shall be submitted to the Local Planning Authority in writing within 3 months of the completion of the demolition. In addition an archaeological watching brief shall be provided on site during the works of demolition.

Reason: In the interests of preserving and recording features of architectural or historic interest and in accordance with policies BES, BE5 and BE9 and BE10 of the saved adopted Torbay Local Plan 1995-2011.

02. The building(s) shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made, and planning permission has been granted for the redevelopment for which the contract provides.

Reason: To ensure that the character and appearance of the Brixham Town

Conservation Area is not prejudiced by the creation of a gap on this key site and to meet the criteria of Policy BE5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

03. No works of demolition shall be carried out during the breeding season for Herring Gulls (April to June).

Reason: In the interests of protecting the herring gulls' nest on the flat roof of the adjacent building which are protected under the Wildlife and Countryside Act 1981 and to meet the criteria of Policy NC5 of the Saved Adopted Torbay Local Plan 1995 to 2011.

### **Relevant Policies**

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## **Updated Officer Report**

### **Application Number**

P/2012/0910

### **Site Address**

2 Fore Street  
Brixham  
Devon  
TQ5 8DS

### **Case Officer**

Mr Scott Jones

### **Ward**

Berry Head With Furzeham

### **Description**

Demolition of 2 and 2A Fore Street

### **Executive Summary**

This is a proposal for Conservation Area Consent to demolish. It is unaltered to that previously considered by Members at the November 2012 Committee, to demolish the existing property at 2 and 2a Fore Street on Bolton Cross in Brixham and widen the junction. The parent Planning Application (P/2012/0911) that also includes the replacement of the current building with a smaller property on the corner, remains as previously considered and also returns to Committee, supported by a simpler public realm scheme as a further option in the event that the replacement building is not forthcoming.

The motivation behind the scheme remains, being a facilitating factor for highway

amendments to aid the resolution of air quality and traffic congestion concerns in the immediate area.

The scheme to demolish was resolved to be approved by the Committee in November (2012) with conditions in regard to;

- (1) Historic building recording prior to demolition
- (2) To not be demolished until a contract for the redevelopment of the site has been made, and
- (3) Not to be demolished within the breeding season for herring birds (April-Sept).

The application has not been formally approved, due to the Flood Risk Assessment report only being received on 22 February. The scheme returns to Committee to seek amendment to the previous resolution, solely in regard to Condition 2, due to reasons outlined below.

The Highway Department requests that Condition 02, in regard to the requirement to enter in to a formal contract for the redevelopment prior to demolition, is removed. This request is largely for logistical reasons in order to enable the demolition to be carried out prior to the resolution of the procurement of a contract, which is ongoing but as yet unresolved. The ultimate desire is to afford the opportunity to commence in early spring and ensure that the scheme does not get delayed by the bird breeding season and begins before the main tourism season.

In regard to implications of the revision, the previous condition afforded protection to the visual amenities of the area, ensuring that the building would not be removed without a contract being let for its replacement. There is however wider planning merit to consider in expediting the scheme to bring forward air quality improvements within the area and relieve pressure at the Bolton Cross junction.

Bringing forward the demolition will enable the highways junction improvement works to take place and will accord with a logical preference for these works to occur sequentially ahead of any commencement of works in the town centre car park, in the event that approval is granted to application P/2012/1309.

Officers consider that there is merit to some form of relaxation in the wording of the condition rather than its full removal. The suggested re-wording cited below is considered a pragmatic solution that brings forward the potential air quality and congestion improvements without delay. It also offers protection to the visual implications of removing the building.

Having considered the matter officers' have invited the submission of a simpler public art/public realm scheme that would provide a fall-back position for Highways to enact should resolution of the new build scheme not be forthcoming within the 3 months following commencement of the demolition. The public art / public realm scheme would, if required, make good the end wall and provide a small plaza / seating area along with a public art installation.

The proposed wording below is the officers' recommendation, which will enable imminent commencement of the demolition and the progression of the contractual

matters within the next few months.

There are risks associated with allowing the demolition to take place ahead of a contract for the redevelopment, which is why the condition provides for a public art / public realm scheme in the event that the trigger for the re-provision of a building on the site is not met.

English Heritage has provided verbal advice confirming that demolition, ahead of a contract to rebuild, is acceptable. English Heritage has confirmed that it understands the need for an interim solution and would want to be involved in the design of an interim solution.

### **Recommendation**

A revision of the wording of Condition 02 be supported.

### **Proposed revised wording of Condition 02:**

Within 3 months of the commencement of the demolition of the building(s) a contract for the carrying out of the works of redevelopment of the site shall have been made, and planning permission shall have been granted for the redevelopment for which the contract provides.

In the absence of the above, within 6 months of the commencement of demolition a public realm solution including the making good of the end walls and the provision of a public art installation and a public plaza, shall be implemented in full, in accordance with detailed plans that shall have previously been submitted to and approved by the Local Planning Authority in writing.

Reason: To ensure that the character and appearance of the Brixham Town Conservation Area is not prejudiced by the creation of a gap on this key site and to meet the criteria of Policy BE5 of the Saved Adopted Torbay Local Plan 1995 to 2011.