



Friday, 4 July 2014

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 14 July 2014

commencing at **2.00 pm**

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

Members of the Committee

Councillor McPhail

Councillor Addis

Councillor Pentney

Councillor Baldrey

Councillor McPhail

Councillor Brooksbank

Councillor Morey

Councillor Kingscote

Councillor Stockman

Councillor Tyerman

Working for a healthy, prosperous and happy Bay

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

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Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Election of Chairman/woman**
To elect a Chairman/woman for the 2014/15 Municipal Year.
2. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
3. **Election of Vice-Chairman/woman**
To elect a Vice Chairman/woman for the 2014/15 Municipal Year.
4. **Minutes** (Pages 1 - 3)
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 May 2014.
5. **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.)
6. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
7. **P/2014/0181/PA - 13 Greenway Road, Brixham** (Pages 4 - 15)
Proposed Dwelling house and new access from Orchard Close.
8. **P/2014/0442/HA - 302 Dartmouth Road, Paignton** (Pages 16 - 22)
Replacement enclosure for the existing swimming pool and the construction of a gymnasium and associated leisure facilities for domestic use.

9. **P/2014/0470/VC - The Arboretum, Blagdon Road/West Lane, Paignton** (Pages 23 - 29)
Revision to conditions 8,9, 10 and 11 of application references P/2008/1217 and P/2009/0479 relating to provision of facilities building, phasing of development on the site and to allow residential use of 9 apartments in the main building (apartments 42-50).
10. **V/2013/0004/V - The Corbyn Apartments, Torbay Road, Torquay** (Pages 30 - 36)
Proposed modifications to Section 106 (P/1991/0370).
11. **P/2014/0286/MRM - Land at Area 4 South, Scotts Meadow, Off Riviera Way, Browns Bridge Road And Rear Of 1 - 21 Swallowfield Rise, Torquay** (Pages 37 - 51)
Reserved Matters Approval for 155 dwellings pursuant to P/2010/1388 relating to scale, layout and appearance of dwellings together with hard and soft landscape designs, associated roads and footpaths. Information to satisfy conditions 4,5,9,10 and 11 relating to nesting and roosting opportunities, energy efficiency, cycle parking, refuse, phasing, management of retained hedgerows and grassland and submission of Travel Plan.
12. **P/2014/0363/HA - Marine View, 8 Peak Tor Avenue, Torquay** (Pages 52 - 55)
Extension & Alterations.
13. **P/2014/0501/MPA - Lansdowne Hotel, Old Torwood Road, Torquay** (Pages 56 - 64)
Demolition of existing building, construction of 14 No apartments with underground parking, revision to vehicular and pedestrian access.
14. **Spatial Planning Performance Report** (Pages 65 - 70)
To note the submitted report.
15. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
16. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 9 July 2014. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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



Minutes of the Development Management Committee

12 May 2014

-: Present :-

Councillor McPhail (Chairwoman)

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

(Also in attendance: Councillor Doggett)

1. Appointment of Chairman

Councillor McPhail was elected as Chairwoman for the 2014/2015 Municipal Year.

2. Apologies for absence

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

3. Minutes

The Minutes of the meeting of the Development Management Committee held on 14 April 2014 were confirmed as a correct record and signed by the Chairwoman.

4. Appointment of Vice-Chairman

Councillor Morey was appointed as Vice-Chairman for the 2014/2015 Municipal Year.

5. P/2014/0237/OA Meldon, Dartmouth Road, Brixham

The Committee considered an application for the construction of 2 x 3 bedroom 2-storey bungalows (Re Submission of P/2014/0110).

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

Resolved:

Approved subject to:

i) the completion and signing of a Section 106 Legal Agreement within 3 months of the date of this committee or the application shall be refused for reasons of the lack of a Section 106 Legal Agreement; and

ii) the conditions set out in the submitted report.

6. P/2014/0071/MRM Land West Of Brixham Road

The Committee considered an application for approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved matters for P/2011/0197.

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

Members requested the Senior Planning Officer approach the developers regarding the potential use of biomass boilers as opposed to gas boilers.

Approved subject to

i) delegated authority be granted to the Director of Place to deal with revised drawings and landscaping; and

ii) the conditions set out in the submitted report.

7. P/2013/1204/PA 72 Primley Park, Paignton

The Committee considered an application for a proposed new dwelling adjacent.

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

Resolved:

Approved subject to:

i) the conditions set out in the submitted report;

ii) the deletion of the dining room window to the north/rear of the dwelling house; and

iii) the completion of Section 106 Legal Agreement to secure the sustainable development contributions in line with policy. The Section 106 Legal Agreement be completed with 3 months of the date of this committee or the application be refused for the reason of the lack of a Section 106 Legal Agreement.

8. Report on Highways Reason for Refusal - Application P/2013/0572

The committee were advised that an appeal had been submitted against the Council's decision on planning application P/2013/0572, Land Adjacent to the A385 Totnes Road, Collaton St Mary. A review of the Council's position had been undertaken in preparation for the appeal. As part of the review independent advice had been sought in respect of the highways reason for refusal. The advice concludes that the reason for refusal relating to highways would be difficult to defend at appeal. Members were advised that the substantive reasons for refusal of the application relating to landscape impact and the piecemeal unsustainable development of this site remain robust.

Resolved:

That reason six of the refusal of application P/2013/0572, Land Adjacent to the A385 Totnes Road, Collaton St Mary be removed.

Chairman/woman

Application Number

P/2014/0181

Site Address

13 Greenway Road
Brixham
Devon
TQ5 0LR

Case Officer

Carly Perkins

Ward

Churston With Galmpton

Description

Proposed Dwelling house and new access from Orchard Close

Executive Summary/Key Outcomes

The proposal is for a single detached two storey dwelling with access to the highway being achieved via Orchard Close. The proposal includes a single storey attached garage to the side of the dwelling.

The proposal is considered acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality.

Recommendation

Committee Site Visit; Conditional Approval subject to a section 106 agreement / upfront payment, to be signed / submitted within 3 months of the date of this committee or the application be refused for reasons of a lack of such agreement.

Statutory Determination Period

8 weeks, the determination date was the 29th April 2014. This date has been exceeded due to the need for further information to be submitted regarding surface water drainage, ecology and trees. An extension to this timescale has been agreed with the applicant/agent.

Site Details

The application site is part of the residential garden serving Bearscombe, 13 Greenway Road. Due to the topography of the site and the surrounding area, the site is at a lower level than Barnfield Close to the south and number 11 Greenway Road to the east and at a slightly higher level than properties in Orchard Close which are located to the west.

Detailed Proposals

The proposal is for a single detached two storey dwelling with access to the highway being achieved via Orchard Close. The proposal includes a single storey attached garage to the side of the dwelling.

Summary Of Consultation Responses

Highways Engineer: Orchard Close is a private road and Highways would not raise any objection to the proposed access on to Orchard Close as there are already more than 5 dwellings served from this road which would be the normal maximum recommended from a private road. 5 of these dwellings are located in Orchard Close and the 6th is the application dwelling 13 Greenway Road which is served in part by Greenway Road and in part by Orchard Close. Whether or not the occupiers have a right of access over Orchard Close is a civil issue. Highways would recommend that the boundary hedge is maintained at a height not exceeding 900mm however if this would not to be implemented Highway would not recommend refusal.

In terms of visibility from Orchard Close on to Greenway Road, 1 additional dwelling would not be considered to significantly impact on highway safety. Parking on the private road and the impact the new dwelling would have on this is not a consideration from a highways perspective.

Arboricultural Officer: The Officer's original response raised some concerns regarding the siting of the habitable rooms of the dwelling within the shade path of the densely canopied Beech trees and the potential for requests for felling and/or major pruning in the future if the proposal is approved. In response to this a shade analysis report was submitted and following consideration of this the Arboricultural Officer has stated that the application is suitable for approval on arboricultural merit.

The submitted report and design layout, principally the fenestration, addresses concerns with regard to restricted light level to the property. The presence of the Tree Preservation Order provides a strong element of control over the retention of the important trees which can be further strengthened by way of condition requiring trees to be retained in perpetuity. In addition the tree report submitted contains a tree protection plan reference TPP04076 Rev A and a condition should be included to state that this is installed prior to the commencement of development.

Drainage: Details of infiltration tests and detailed design of soakaways should be submitted prior to planning permission being granted. Details of the infiltration tests and detailed design was submitted however the Drainage Engineer raised concerns with the submitted information and requested revisions to the proposed surface water drainage details.

Further details were submitted to the Drainage Engineer and he has stated that providing the soakaways are constructed in accordance with their detailed design and the invert level of the incoming pipework is above the soffit level of the soakaways there are no objections to planning permission being granted for this development.

Green Infrastructure Coordinator: The contents of the submitted ecological survey are largely agreed with and several conditions have been recommended in order to mitigate any potential impacts of the development. The conditions relate to:

1. the submission of a method statement for hedgerow translocation and a requirement to replace the hedgerow if translocation is unsuccessful,
2. the submission of further details of the new hedgerow to be planted including species and a minimum 5 year management plan,
3. the submission of further details of the green roof including species,
4. the submission of a method statement detailing the actions required to prevent amphibians/reptiles being injured,
5. the submission of details of bird and bat boxes and informatives to ensure that vegetation removal is undertaken outside of bird nesting season or following a pre-works check by an ecologist to ensure nesting birds are absent.

Summary Of Representations

11 objections have been received. Issues raised:

- Impact on highway safety and parking provision
- Out of character with bungalows in Orchard Close
- Impact on surface water/foul drainage and flood risk
- Impact on biodiversity
- Impact on light
- Concerns regarding right of access and maintenance
- Concerns regarding the setting of precedent
- Overdevelopment
- Loss of garden land
- Impact on residential amenity
- Concerns regarding removal of trees and other vegetation
- Concerns regarding noise
- Concerns regarding to construction traffic

These representations have been copied and sent electronically for Members consideration.

In line with the Site Review Meeting Protocol, a meeting took place on 02.05.2014 and following this meeting Councillors Mills and Pritchard agreed with Officers that the application be considered by the Development Management Committee at the next Committee Meeting of 09.06.2014.

Relevant Planning History

- P/2003/0691 Erection of dwelling and garage with access on to Orchard Close (in outline) WITHDRAWN 09.06.2003
- P/2003/1832 Erection of dwelling with garage and access onto Orchard Close (in outline) REFUSED 31.12.2003

Key Issues/Material Considerations

The relevant considerations are the standard of the internal environment for potential occupiers, parking provision, the impact on trees and biodiversity, the impact of the proposals on neighbouring residential amenity and the impact of the development on the character and appearance of the locality.

Planning History:

In 2003 two outline applications were submitted for a dwelling to the rear of number 13 Greenway Road. The first of these two applications was withdrawn and no details as to the reasoning for this are available. The second application, again in outline was refused as 'insufficient detail [was] submitted with the application to demonstrate that the proposal [would] not be contrary to Policies H3, H17 and C11 of the Adopted Torbay Local Plan and Environmental Guide or to Policies H10, L10, BES and BE1 of the Torbay Local Plan 1995-2011 Proposed Modifications and Environmental Guide'.

As part of this application only a site location plan and block plan were submitted and so the principle and impact of the development could not be properly considered leading to the refusal of the application.

Character and Appearance:

Representations regarding the impact of the proposal on the character and appearance of the area have been received and noted. The proposal is for one detached two storey dwelling with an attached single storey mono-pitch garage.

The design of the dwelling is not significantly different to those two storey dwellings in Greenway Road with the exception of the more modern additions such as sedum roofs and solar panels. Views of the dwelling will be most apparent from the junction of Greenway Road and Manor Vale Road and from this point it is considered that the dwelling will be viewed as part of the two storey character or Greenway Road rather than the bungalow character type of Orchard Close.

The presence of bungalows in Orchard Close and Barnfield Close are noted and these form part of the varied character of the wider area which is not characterised by one single house type. Due to the position of the new dwelling

in relation to the existing two storey dwelling and the clear separation from the bungalows to the west and south by the driveway and the significant change in land levels it is considered that a two storey dwelling in this location is considered appropriate and without detriment to the character or appearance of the locality.

Concerns have been raised regarding the overdevelopment of the site. No standards in terms of recommended densities have been given within the National Planning Policy Framework however it does state in paragraph 47 that housing density should reflect local circumstances. The plots surrounding the site in Orchard Close, Greenway Road and Barnfield Close vary substantially in size from approximately 400sqm to 1900sqm, suggesting that there is no prevailing plot size in this locality. However, the resulting plot sizes of number 13 and the new dwelling are approximately 1200 sqm each which would conform to the mean average plot size in this area.

Notwithstanding that the resulting plot sizes would be on a par with the average, each dwelling would benefit from a generous garden, driveway area and garage and the proposed dwelling is separated from the existing dwellings by a minimum distance of 17m-27m (approximately) and therefore the proposal would not be considered to represent overdevelopment.

Whilst an argument could be made that a development of a smaller dwelling or certainly no dwelling at all would be more spacious, this current arrangement is not considered to result in a cramped form of development given its similarities to the size of neighbouring plots or be to the detriment of neighbouring sites or future occupiers of the site.

Representations have also been received regarding the loss of garden land with reference to garden grabbing. National planning policy does not prohibit the development of residential gardens and only suggests that development of such kind should be restricted where it would be considered inappropriate (such as in more rural locations). In this instance the development would not be considered to result in the overdevelopment of the site nor would it be to the detriment of neighbouring site or the future occupiers of the site, the development would benefit from a separate access to the highway and remain in keeping with the varied character of the locality. Therefore it would be considered to be an appropriate form of development.

Residential Amenity:

Concerns have been raised regarding the potential impact on residential amenity by reason of loss of light, privacy or by reason of being unduly dominant or overbearing. The dwelling has been orientated to face north-west, with number 3 and 3a Orchard Close being located directly north-west of the front elevation and being approximately 21m (minimum distance) away. Whilst the concerns are noted, in light of this distance and the intervening features separating the

dwellings (existing garage, hedgerow and driveway) the proposal would not be considered to result in serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing for the occupiers of these dwellings.

Number 4 is located south-west of the proposed dwelling and is separated from the application site by the driveway associated with number 4 and a hedgerow within the application site. Proposed windows are positioned so that they do not directly face number 4 and any views in this direction would be offset such that they would not be considered to result in serious detriment to residential amenity by reason of loss of privacy. In addition to this windows are again located approximately 20m (minimum distance) from number 4 which, as the properties are not directly facing each other and due to the presence of intervening features, is considered to be an acceptable distance. Similarly due to this distance the proposal is not considered to result in serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing.

The south-west elevation of the dwelling faces on to the rear boundary of the site and on to Barnfield Close which is located at a higher level than the application site. The south west elevation would face directly on to the turning head associated with Barnfield Road predominantly and the vegetation within the boundary of the application site and number 17 Barnfield Close. Due to the positioning and angle of the dwelling views toward number 19 would be offset.

Irrespective of the orientation in relation to the properties in Barnfield Close, number 17 is separated from the proposed dwelling by approximately 27m and number 19 approximately 17m. Due to the presence of intervening features, the offset nature of the dwellings and the change in land level such distances are considered acceptable and without serious detriment to residential amenity by reason of loss of privacy. Similarly due to this distance and the change in land levels the proposal is not considered to result in serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing.

Numbers 11 and 13 Greenway Road are separated from the proposed dwelling by a minimum distance of 21m approximately (not including the proposed garage). As with other neighbouring dwellings, the orientation of the proposed dwelling prevents any direct overlooking between sites. The separation distance, change in land levels and orientation of plots is considered to prevent serious detriment to residential amenity by reason of loss of light, privacy or by reason of being unduly dominant or overbearing.

Parking Provision and Highway Safety:

Number 13 benefits from two accesses, one from Greenway Road and one from

Orchard Close (it is noted that only one of these appears to be used for vehicular access). It has been confirmed by the applicant that the property also benefits from a right of access over Orchard Close to the public highway. A vehicular access from the rear garden of number 13 on to Orchard Close would not require planning permission and could be achieved without consideration by the Local Planning Authority.

Orchard Close is considered to serve 6 properties therefore leading it to exceed the guidance contained with the Council's Highway Design Guide which states that only 5 dwellings should be served via a private drive. This guidance however is not in relation to highway safety, 5 dwellings is referred to because any more than this can lead to potential problems relating to maintenance of such private drives and inconsiderate parking.

In this instance this number has already been exceeded and therefore the Highways Engineer would not object to the proposal for an additional dwelling. In addition to this the National Planning Policy Framework' paragraph 32 states that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'. In this case one additional dwelling is not considered to have a significant or severe impact on highway safety and therefore in line with comments from the Highways Engineer the proposal is considered acceptable on highway safety grounds.

The proposal includes the provision of 3 off road parking spaces (to include 1 garage space) which is considered sufficient for a dwelling of this size. A condition relating to the retention of parking areas for the parking of vehicles has been included in this recommendation. The proposal also includes a turning area to allow cars to enter and exit the site in a forward gear. Whilst comments regarding the impact of parking on the private drive are noted, this drive is not formally set out as an area for parking and therefore whilst the residents of Orchard House may use the private drive as parking, this has not been formalised and so would not constitute a reason to refuse the application.

Representations about construction traffic have also been noted; however these potential issues are short lived whilst the scheme is in its construction phases and would not constitute reasons to refuse the application. The Applicant is, however, advised to carry out the proposal with consideration for the occupiers of neighbouring properties. Any damage caused to the private drive during the construction process would be a civil issue to be resolved between the relevant parties. It is noted that the applicant has agreed to a deed of covenant to cover the maintenance of the private drive but again this is a civil issue.

The Highways Engineer has made a recommendation that the hedgerow lining the western boundary be kept at a height no higher than 900mm but has confirmed that this is recommendation only that would improve the situation but would not result in a recommendation of refusal if it were not to be carried out. In

light of the benefits this hedge has in terms of visual and residential amenity it is considered appropriate to retain this hedgerow at its current height in order to lessen the impacts of the development.

Landscaping, Trees and Biodiversity:

As part of the application, removal of trees and some vegetation is proposed, there is also a tree preservation order covering trees towards the south east corner of the site and the trees subject to this order are not subject to any works as a result of the development. In response to concerns raised by the Tree Officer relating to shading as a result of the trees subject to the tree preservation order, a shade analysis was submitted to the Council for consideration. The submitted report and design layout, principally the fenestration, addressed concerns with regard to restricted light level to the property. In line with the comments from the Tree Officer, the presence of the Tree Preservation Order provides a strong element of control over the retention of the important trees which can be further strengthened by way of condition requiring trees to be retained in perpetuity. In line with these comments the proposal is considered acceptable in terms of its impact on trees within the site.

In light of the need to remove hedgerows and trees an ecological survey has been submitted to support the application. This survey makes recommendations in order to mitigate the potential impacts of the development. The report has been considered by the Green Infrastructure Coordinator who has agreed with its findings and requested the inclusion of conditions if the proposal is considered to be acceptable.

It is noted that some vegetation along the rear boundary of the site has been removed and the applicant has noted that some replanting has taken place. Some detail of this planting has been formally submitted but further information is still required regarding the new planting as specified on the drawings. It is therefore considered necessary to include a landscaping condition to include details of existing trees/vegetation to be retained, planting plans, specifications and future management. This condition will also include further details of boundary treatments and hardstandings to be submitted.

Drainage:

It is proposed that surface water drainage be dealt with via soakaways. The Council' Drainage Engineer has requested further details to demonstrate that a soakaway is a suitable option to deal with surface water. Details of surface water drainage were submitted during the process of the application and the Drainage Engineer has stated that providing the soakaways are constructed in accordance with their detailed design and the invert level of the incoming pipework is above the soffit level of the soakaways the proposal is considered acceptable.

It is proposed that foul sewerage be disposed of via a mains sewer or a package treatment plant. The proposal is for one additional dwelling and therefore it is considered that the impact on the capacity of the mains sewer (if this option is pursued) would not be greatly impacted however the ability of the public sewer to accommodate an additional dwelling will be thoroughly considered during the process of a building regulations application.

Other Issues:

Representations have been made regarding rights of access over Orchard Close and are noted. However access rights are a civil issue to be resolved between the relevant parties and would not constitute a planning consideration. Representations regarding the setting of precedent have also been noted but would not constitute planning considerations. All applications are considered on their own merits and the acceptability of one scheme does not automatically result in the acceptability of another.

Conditions:

In addition to the conditions noted above regarding the retention of parking areas, landscaping, biodiversity and the retention of trees it is also recommended to include a condition relating to the removal of permitted development rights. Whilst at present the proposed dwelling is considered acceptable the inclusion of extensions to the rear and sides of the development may result in a detrimental impact to residential amenity by reason of additional windows, an impact on trees or an undue loss of private amenity space and therefore it is considered necessary to ensure that any additions to the dwelling are subject to planning consideration.

S106/CIL -

As part of the application process the proposal has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay. In addition, the application has been assessed against the adopted Council Report 'Third Party Contributions towards the South Devon Link Road', which seeks contributions towards funding the South Devon Link Road (SDLR) where new development impacts on, or contributes to the need for the SDLR.

The following contribution is required, based on the type and size of the development proposed:

FINANCIAL CONTRIBUTION:

Waste Management	£ 50.00
Sustainable Transport	£3,353.33
Lifelong Learning – Libraries	£ 213.33
Greenspace and Recreation (where no onsite public open space)	£2,113.33
South Devon Link Road (subtracted from sustainable development contributions)	£ 770.00
TOTAL (including 5% admin charge)	£6,825.00
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<u>Total with 5% early payment discount</u> (including 5% admin charge)	£6,483.75

Conclusions

The proposal is considered acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance locality. The application accords with Local Plan Policy and relevant paragraphs of the NPPF. The sustainable development contribution is to be paid via a section 106 agreement.

Condition(s)/Reason(s)

01. The development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority. Details of soft landscape works shall include retention of any existing trees and hedges; details of any translocation (including a method statement and details of replacement hedgerows if translocation is not successful), finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure and boundary and surface treatments. In terms of biodiversity mitigation, details shall include measures for biodiversity mitigation and enhancement, such as retention of hedge and trees where possible, replacement habitat features for any lost, planting schemes of benefit to biodiversity, incorporation of bird and bat box features; information shall also be provided on how these features are to be maintained in favourable condition to support biodiversity. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with Policy NCS, NC5 and L9 of the Torbay Local Plan 1995-2011.

02. Prior to the commencement of the development the tree protection shall be installed in accordance with drawing number 04076 TPP 21.01.2014 Rev A and the Arboricultural Impact Assessment Report Aspect ref: 04076 AIA 8.1.14 dated 21.01.2014.

Reason: In accordance with the submitted details and to protect trees in the interests of visual amenity in accordance with Policy L9 of the Torbay Local Plan 1995-2011

03. Notwithstanding condition 1, trees shall be retained in perpetuity in accordance with drawing number 04076 TPP 21.01.2014 Rev A.

Reason: In accordance with the submitted details and to protect trees in the interests of visual amenity in accordance with Policy L9 of the Torbay Local Plan 1995-2011.

04. The development shall not commence until full details of the green roof of the garage including details of species and future maintenance have been submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and biodiversity in accordance with Policy BES, BE1, NCS, NC5 and L9 of the Torbay Local Plan 1995-2011

05. Parking facilities shall be provided and thereafter permanently retained for the parking of vehicles in accordance with the approved plans prior to occupation of the dwelling.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policy T25 of the Torbay Local Plan 1995-2011.

06. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 (which includes enlargement, improvement or other alteration, porches, sheds, greenhouses, huts, oil storage tanks, fences and walls) shall be constructed (other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained).

Reason: In the interests of visual and local amenity in accordance with Policy H9

of the Torbay Local Plan 1995-2011.

07. Development, including the removal of the pond and any site or vegetation clearance, shall not commence until details of a scheme designed to avoid harming common amphibians and reptiles has been submitted to and approved in writing in advance by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme

Reason: To prevent harm to amphibians and reptiles, such as common toads and frogs, palmate and smooth newts in accordance with Policy NCS and NC5 of the Torbay Local Plan 1995-2011.

08. No vegetation removal shall be undertaken during bird nesting season (March-September) unless a pre-works check is carried out by a suitably qualified ecologist to ensure that nesting birds are absent.

Reason: To prevent harm to nesting birds in accordance with Policy NCS and NC5 of the Torbay Local Plan 1995-2011.

09. Prior to the occupation of the dwelling, the soakaways shall be constructed in accordance with drawing number BS-05 and the invert level of the incoming pipework shall be above the soffit level of the soakaways. The surface water drainage system shall be continually maintained thereafter.

Reason: Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

10. Notwithstanding the approved plans, the access to the site from Orchard Close shall proceed in accordance with drawing number BS-01N rev2 received 25 June 2014.

Reason: For the avoidance of doubt in accordance with the submitted details.

Relevant Policies

- H2 New housing on unidentified sites
- H9 Layout, and design and community aspects
- NCS Nature conservation strategy
- NC5 Protected species
- L9 Planting and retention of trees
- T25 Car parking in new development
- EPS Environmental protection strategy
- NPPF National Planning Policy Framework

Application Number

P/2014/0442

Site Address

302 Dartmouth Road
Paignton
Devon
TQ4 6LH

Case Officer

Carly Perkins

Ward

Churston With Galmpton

Description

Replacement enclosure for the existing swimming pool and the construction of a gymnasium and associated leisure facilities for domestic use.

Executive Summary/Key Outcomes

The proposal is for a larger replacement enclosure to the existing swimming pool to also include space for other leisure facilities. The proposal is ancillary to the existing use of the residential dwelling.

The proposal is considered acceptable and without serious detriment to residential amenity, visual amenity or the character and appearance of the area. This is subject to the inclusion of conditions and a section 106 agreement to ensure the proposal is used ancillary to the residential use of the host dwelling and not for any other purpose.

Recommendation

Committee Site Visit; Approve subject to conditions and section 106 agreement.

Statutory Determination Period

8 weeks, the determination date was the 9th July 2014 however as the next Committee was not scheduled until the 14th July this date has been exceeded.

Site Details

The application site is a detached property on the western side of Dartmouth Road, set within a large plot. It is set back over 30 metres from the main road with further detached properties located to the north, south and west of the site. The rear garden is largely paving with some planting along of the boundaries of the rear garden. There is a garden structure in the south western corner of the garden and a swimming pool enclosed by a structure towards the centre.

Detailed Proposals

The proposal is for a larger replacement enclosure to the existing swimming pool to also include space for other leisure facilities. The proposal is ancillary to the existing use of the residential dwelling.

Summary Of Consultation Responses

None received.

Summary Of Representations

7 representations have been received (6 objections and 1 in support from the applicant). Issues raised:

- Overdevelopment
- Use of pool and facilities for commercial purposes
- Noise
- Impact on integrity of boundary walls
- Impact on visual amenity
- Out of keeping with locality
- Impact on privacy as a result of terrace
- Impact on value of surrounding properties

Letter in support of application and in response to objections raised.

These representations have been copied and sent electronically for Members consideration.

Relevant Planning History

P/1983/1739	Garden room boiler store etc APPROVED 20.09.1983
P/1986/1926	Four bedroomed detached dwelling with garage REFUSED 21.10.1986
P/1989/0485	Erection of one dwelling house and garage (in outline) APPROVED 10.05.1989
P/2011/1035	Formation of enclosure to existing swimming pool and formation of changing rooms WITHDRAWN 01.12.2011
P/2012/008	Enclosure to existing swimming pool and formation of new changing rooms WITHDRAWN 20.02.2012
P/2012/0316	To raise the height of part of boundary wall and replace flat roofs with pitched roofs to side elevation APPROVED 21.05.2012
P/2014/0336	Widen gable over garage to front elevation (amendment to P/2012/0316) APPROVED 27.02.2014
P/2014/0226	Enclosure over the existing swimming pool including

Key Issues/Material Considerations

The relevant considerations are the impact of the proposals on neighbouring residential amenity and the impact of the development on the character and appearance of the existing dwelling and the wider locality.

Planning History:

There have been 3 applications in the past for an enclosure of the existing swimming pool with associated facilities, two planning applications and one certificate of lawfulness for a proposed development. Each of these three applications has been withdrawn as it was likely that they would be recommended for refusal.

The first application in 2011 was attached to the existing house and had a maximum height of 4.2m (this was reduced to 3.8m alongside the western boundary and 2.8m alongside the southern boundary). The design was not particularly innovative and no additional landscaping or works to improve the appearance of the rear garden were proposed. This application was recommended for refusal due to its size, impact on neighbouring properties and visual impact (the application was however withdrawn before it was formally determined).

In 2012 a revised application was submitted for an enclosure of approximately 275sqm. The height of the enclosure alongside the western boundary was reduced so that it was below the wall but the maximum height remained the same at 4.2m. Again the design was very similar to that previously submitted with the exception of the roof design which was amended to slope away from the boundaries. This application was again recommended for refusal but was withdrawn prior to a formal determination.

The final application was for a certificate of lawfulness to determine whether or not the works would constitute permitted development. The works did not constitute permitted development due to the height of the building and its attachment to the existing dwelling. This application was withdrawn as the certificate would have been refused.

Impact of the proposed development on character and appearance:

Representations have been received regarding the overdevelopment of the plot and the latest revised proposal being out of keeping with the locality. These representations are noted.

The current rear garden is largely hard surfaced and features two garden structures which do not relate well in design to the existing house or position in terms of the rear gardens' usability. The proposed extension is now

approximately 250sqm in area and has a maximum height of 3.8m with this reduced to 3.2m alongside the boundary (same height as existing wall on western boundary and 300mm higher than existing wall on southern boundary).

The highest part of the building is located 4.5m (approximately) within the site. The design of the proposal is quite contemporary and adopts a green roof, softening the appearance of the extension and the rear garden as a whole. In addition the proposal includes landscaping to the rear garden improving the appearance of the rear garden from views from neighbouring dwellings.

Given the revisions made to earlier iterations of the scheme, the design is now considered acceptable and will blend satisfactorily with the existing house. Whilst the proposal is sizable, in comparison to the size of the plot which is approximately 1,730sqm, the scale is considered proportionate and will still allow for a sufficient area of private amenity space to the rear and a vast amenity space to the front.

The proposal is not considered to result in an undue loss of private amenity space or the overdevelopment of the site. The works are confined to the rear garden and are not visible from public viewpoints, the proposal is therefore not considered to result in any serious detriment to the character or appearance of the locality.

Comments regarding the impact on visual amenity are also noted. However the site at present is quite stark and features structures which would neither be in keeping or considered to represent good design. The current proposal will soften the appearance of the rear garden from first floor views of neighbouring properties due to the inclusion of additional soft landscaping, and is considered an improvement.

Whilst tiles on the proposed roof will be visible from rear gardens of surrounding properties these will match those on the existing dwelling and would not be considered incongruous in the locality and therefore the proposal is not considered to result in a detrimental impact to visual amenity.

Residential Amenity:

Representations have been received regarding the impact on privacy as a result of the terrace area. The rear terrace is existing and is accessed via a first floor bedroom. The proposal does not include any extension to this area only a change to the terrace material and balustrading, neither of which would be considered to result in any greater impact to residential amenity by reason of loss of privacy. The proposal only features windows fronting on to the rear garden of the application site and therefore is not considered to result in any serious detriment to residential amenity by reason of loss of privacy.

The highest point of the proposal is located within the site approximately 4.5m

away from the shared boundaries to the west and south. The design of the roof is such that it slopes up and away from the shared boundaries so that the lowest point of 3.2m is alongside the boundary and the highest point of 3.8m is located within the site. Due to the design of the roof and the height of the existing boundary treatments, there is not considered to be a significantly greater impact to residential amenity by reason of being unduly dominant or overbearing to warrant the refusal of the application.

Due to the orientation of the surrounding plots, the level of sunlight would be largely unaffected for the majority of the day. The exception to this is during morning for the occupiers of the property to the west where the impact is considered to be similar to that already experienced as a result of the walls surrounding the property. In light of the existing boundary treatments, the design of the roof and the orientation of the surrounding plots in relation to the proposal, the scheme is acceptable and will not result in any serious detriment to residential amenity by reason of loss of light.

Representations have been received regarding the impact of the proposal on noise and have been noted. The use of the rear garden will remain unchanged as a result of this application, being used for purposes incidental and ancillary to the use and enjoyment of the existing dwelling house. The enclosure of the swimming pool and the additional facilities within this enclosure are not considered to result in any greater noise levels than that which could currently occur. This is a householder application and not for commercial purposes.

In order to overcome these stated concerns of neighbouring residents the applicant has verbally agreed to enter into a section 106 agreement to ensure that the facilities within the enclosure are used ancillary to the use of the existing dwelling house and not for any other purpose. This is also recommended as a condition of the approval. The applicant has stated in their representation that sound proofing will be included to the plant room and this also has been included as a recommended condition.

Landscaping:

The proposal includes the additional landscaping which is considered to improve the appearance of the rear garden but also help to mitigate the impact of a larger built structure in the rear garden. A condition has been included to ensure that details of the landscaping are submitted to and approved by the local planning authority.

Other Issues:

Representations have been made regarding the impact of the proposed enclosure on the value of the neighbouring dwellings. Whilst noted this would not constitute a material planning consideration. Representations regarding the structural integrity of the boundary walls are also noted but would be considered a civil issue to be resolved between the relevant parties and not a reason to

refuse the application.

S106/CIL -

It is considered that a section 106 agreement is required to ensure that, due to the size of the enclosure, it remains ancillary to the residential use of the existing dwelling.

Conclusions

The proposal is considered acceptable and without serious detriment to the residential amenity or the character and appearance of the existing dwelling. It accords with policy, specifically policy H15 of the Saved Adopted Torbay Local Plan and as such it is recommended for approval subject to a s106 agreement and conditions.

Condition(s)/Reason(s)

01. The development shall not commence until full details of soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority. Details of soft landscape works shall include retention of any existing trees and hedges; details of green roof, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with Policy BES, BE1 and L9 of the Torbay Local Plan 1995-2011.

02. The building hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the host dwelling known as 'Pentire 302 Dartmouth Road' and shall not be used for any other purpose.

Reason: In accordance with the application submission and use for any other purpose would require a separate application to be considered on its merits in accordance with the objectives of Policies H8 and E10 of the Saved Adopted Torbay Local Plan 1995-2011.

03. Before any plant is used within the enclosure it shall be enclosed with sound-insulating material in accordance with a scheme to be approved in writing by the local planning authority.

Reason: In the interests of local amenity in accordance with policy H15 of the

Torbay Local Plan 1995-2011.

Relevant Policies

- H15 House extensions
- BES Built environment strategy
- BE1 Design of new development
- H8 Change of use from housing to other uses
- E10 Home working
- L9 Planting and retention of trees
- NPPF National Planning Policy Framework

Agenda Item 9

Application Number

P/2014/0470

Site Address

The Arboretum
Blagdon Road/West Lane
Paignton
Devon

Case Officer

Mrs Helen Addison

Ward

Blatchcombe

Description

Revision to conditions 8,9, 10 and 11 of application references P/2008/1217 and P/2009/0479 relating to provision of facilities building, phasing of development on the site and to allow residential use of 9 apartments in the main building (apartments 42-50).

Executive Summary/Key Outcomes

The application is to allow the nine apartments in the main building on the site to be used for permanent residential purposes. In addition it is proposed to revise the trigger for the delivery of the Leisure facilities building and woodland units so that they do not need to be provided for use until 36 months after the sale of the 7th unit in the main building. The purpose of these revisions is to pump prime the delivery of the holiday units approved on the site under application references P/2008/1217 and P/2009/0479.

The works to the 9 apartments in the main block is ongoing and the scheme will result in the provision of high quality apartments. There has been a long hiatus in delivering this scheme because of the problems in securing finance for the development.

However, there remains a strong desire to achieve delivery of this prestigious holiday/leisure scheme. As such the proposed changes to 106 clauses and conditions are intended to release financing to deliver the remainder of the scheme.

Recommendation

The S106 agreement and conditions be varied within 3 months of the date of the meeting. If the agreement is not signed within this period the application be refused planning permission.

Statutory Determination Period

The eight week target date for determination of the application is 15th July 2014. It will only be possible to meet this target if the S106 agreement is completed by this date.

Site Details

Site of Barton Pines, now known as the Arboretum, which is situated about 2 kilometres to the north west of Collaton St. Mary on the edge of Torbay's administrative boundary with South Hams.

The site was most recently used as for holiday purposes. There is a substantial main building on the site and there were a number of pitches within the grounds. Approved works to the main building on the site have commenced.

Detailed Proposals

The application is for the following;

- To allow residential use of the 9 apartments in the main building on the site. This requires a variation of condition 8 on planning application references P/2008/1271PA and P/2009/0479PA which restricted the occupancy of the units on the site to holiday use only. The remainder of the units approved under application references P/2008/1271PA and P/2009/0479PA would continue to be restricted to holiday occupation.
- To revise the trigger for the delivery of the Leisure facilities building to making it available for use within 36 months of the sale and occupation of the 7th unit in the main building. Under application reference P/2012/0461 the trigger was varied to delivery 'within 20 months of the commencement of units 5-20 and 34-41, and prior to the occupation of units 2-4 and 21-33'. Under the original consents P/2008/1271PA and P/2009/0479PA delivery was 'prior to the occupation of any of the units'.
- To revise the phasing of development on the site to accord with plan reference 1489.1.7.3P. The provision of the woodland units and leisure facilities building to be completed within 36 months of the sale and occupation of the 7th unit in the main building.

Summary Of Consultation Responses

No consultations are relevant to this application.

Summary Of Representations

None received

Relevant Planning History

1985/1490	formation of 8 holiday flats approved 11.7.85
1989/2374	formation of 1 additional holiday flat on first floor approved 10.1.90
2003/0812	change of use of 9 holiday flats and owners accommodation

	to residential use, refused 29.7.03
2003/1962	change of use of 9 holiday flats and owners accommodation to residential use refused 29.7.03
P/2008/1217/PA	Formation of holiday village to form lodges, cottages, apartments and leisure facilities. Conditionally approved on 25/11/2008, subject to a Section 106 Agreement to ensure, inter alia, that the cottages, flats and lodges are used for holiday use only. A maximum of 59% of the approved units were to be sold on long leaseholds and the remainder retained within the ownership of the developer to be let for holiday purposes only. 25.11.88
P/2009/0479	Amendments to previous approval (ref application P/2008/1217/PA)- enhanced leisure facilities building; additions to lodges and cottages; extensions to existing main building Approved 10.08.09
P/2012/0461	Variation of S106 on applications P/2008/1217 and P/2009/0479/PA approved 11.10.12
P/2012/1105	Alterations to roof terrace to become enclosed extension with patent glazed roof light; provide lift tower at roof level behind conical tower; insert roof lights and amendments to fenestration approved 22.11.12
P/2013/0066/VC	To regularise the conditions attached to P/2008/1217PA and P/2009/0479PA planning approvals, the 2008 and 2009 Section 106 agreements with the content of the 2012 Section 106 agreement, approved by Development Management Committee on 8.7.13, decision not issued as S106 agreement has not been completed.

Key Issues/Material Considerations

The main issues are a) whether residential use of the nine apartments in the existing building would be acceptable and b) the effect of the proposed revisions to the S106 agreement on the character of the development and the necessity to maintain a tourism offer at the site.

Principle and Planning Policy -

Policy TU7 in the Torbay Local Plan 1995-2011 is relevant to the proposed change of use of the nine apartments in the main building to residential use. This Policy sets out three criteria to assess a proposed loss of holiday accommodation. These are; firstly, whether the loss of holiday accommodation would undermine the holiday character of the locality or the range of tourism

facilities in the Torbay. In this case the area around the application site does not have a tourist character as there are no other holiday uses in the vicinity of the site. The main concentration of holiday facilities in Paignton is close to the seafront and harbour. This property is some distance from the sea front. It is also noted that the property has not been used for holiday purposes for some time. Consequently it can be concluded that the proposed change of use would not impact on the range of facilities available.

The second criteria relates to an assessment of the significance of the holiday setting, view and relationship to tourism facilities. The application site is in a rural location some distance from tourist facilities and the sea. There is a long distance view to the sea that is attractive and makes a notable contribution to the reason why this site constitutes a good location for as a holiday destination. The character of the site is fairly unique in Torbay providing a spacious rural location that is accessible to Paignton. By reason of the quality of the setting of the site and the surrounding environment including attractive long distance views over the surrounding countryside, potentially the proposal does not meet the second criteria in Policy TU7. However the application to allow residential use of the main building is linked to the delivery of an extensive development of holiday accommodation on the site. The applicant has advised that the use of and sale of these nine apartments is necessary to pump prime further work on site to deliver the remaining holiday accommodation and facilities building.

The third criteria relates to whether the new use would be compatible with the character and other uses in the area. The predominant use of other buildings in the area is for residential purposes and therefore the proposed use would be consistent with the established character of the area.

Guidance on the interpretation of Policies TU6 and TU7 is contained in the Council's guidance document "Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan". In this guidance it is advised in respect of holiday apartments conditions on occupancy are likely to be removed. This guidance also advises that where planning permission for residential use is granted unsightly facilities should be removed. On the application site a large two storey extension has been removed that has significantly improved the appearance of the building.

In consideration of the proposed residential use of the main building it is a distinctive building of attractive design that makes a positive contribution to the character of the area. It is noted that extensive refurbishment works have been carried out by the applicant which have significantly improved the external appearance of the building.

Policies H2, H4, H9 and H10 in the Torbay Local Plan are relevant to the provision of new residential accommodation. These Policies promote a high

standard of development to create a satisfactory standard of development. The nine apartments would be consistent with the objectives of these Policies in that they are of a reasonable size and would provide a good quality of environment to live in. There would be on site parking and amenity space available on the site.

In summary, the proposal to use the existing building on the site for residential use would be consistent with the Policies identified above in the Torbay Local Plan 1995-2011, providing it is linked to the delivery of the new holiday accommodation that has been approved on the site.

to the previous S106 agreement

The original S106 agreement has been revised under application reference P/2012/0461 which related to the timing of the delivery of the facilities building. (The approved amendment was to make it available within 20 months of the commencement of units 5-20 and 34-41. In addition units 2-4 and 21-33 could not be occupied until the leisure facilities are available).

Further revisions were requested by the applicant under application reference P/2013/0066VC although this consent has not been issued as the S106 agreement has not been completed. These revisions related to;

- timing of the delivery of the facilities building (as agreed under application reference P/2012/0461).
- revision to phasing of the development,
- implementation of the approved foul and surface water management strategy not to apply to units in the main building,
- revision to triggers for payment of monitoring and sustainable transport contributions to prior to the commencement of development of units 2-41 on the site.

The current proposal is to revise the timing of the delivery of the leisure facilities building to within 36 months of the sale and occupation of the 7th apartment of units 42-50 (the 9 apartments in the main building). The principle of tying the delivery of the facilities building to the sale of the apartments for residential use is to ensure that the holiday development is delivered. This link between allowing residential use of the main building and delivering the holiday development on the site is material to the decision to allow residential use of the main building.

At para 28 the NPPF advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. The expansion of tourist and visitor facilities is supported. Policies TUS, TU3 and TU5 in the Torbay Local Plan 1995-2011 support the provision of new tourist facilities.

The proposed revision to the S106 agreement would continue to ensure that the Leisure Facilities building is provided, as its development would be linked to the

provision of accommodation on the site. Therefore the proposed revision would not change the character of the proposed development. It is noted that it would be in the applicant's interest to provide the Leisure Facilities building as this would be a key element of the development on the site and would significantly increase the site's attractiveness to future holiday makers.

S106/CIL -

In accordance with the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" The following S106 contributions would be required to mitigate the impact of residential use of the nine apartments on local infrastructure;

Planning Contributions Summary

Contribution

Waste Management (Site Acceptability)	£ 450.00
Sustainable Transport (Sustainable Development)	£ 8,870.50
Education (Sustainable Development)	£ 6,065.50
Lifelong Learning (Sustainable Development)	£ 1,425.50
Greenspace & Recreation (Sustainable Development)	£ 7,105.50
South Devon Link Road	£ 5,538.00
Total	<u>£29,455.00</u>
Administration charge (5%)	£ 1,472.75
Total with Admin Charge	<u>£30,927.75</u>

The applicant has raised concerns that the cost of these contributions would have a significant impact on her ability to deliver the holiday accommodation and leisure facilities building on the site, as it would reduce the capital available to invest in delivering new development.

The applicant considers that either the S106 contributions to offset the provision of residential development should be collected by the Council or the Council should impose conditions and measures in the S106 agreement to ensure delivery of new holiday units on the site. In the applicant's opinion the Council should not be seeking both of these objectives.

Officers consider that a compromise position would be the most appropriate way to address this matter. It is agreed that the benefit of a short term delivery of the leisure facilities building and woodland units would justify a case for the S106 contributions to be waived as there would be a significant benefit to the economy. However if the leisure facilities and woodland units are not delivered within a specified timescale it would be appropriate to require payment of the S106 contributions, as the link between residential use of the main building and the

new holiday units would become more tenuous. To this end it is suggested to Members that the above S106 contributions should not be payable providing the facilities building and the woodland cottages (units 5-20) are completed within 24 months of the trigger date. The trigger date would be the sale of the 7th main building apartment. In the event that the facilities building and woodland cottages are not completed within the 24 month timescale the above contributions would be payable to the Council.

Conclusions

In conclusion, residential use of the main building on the site would have a limited impact on the character of the area if allowing this use enabled delivery of the approved holiday units on the site. The proposed variation of the S106 agreement would provide additional flexibility for the applicant to develop the holiday units. This approach is consistent with advice in para. 28 of the NPPF to support economic growth in the rural economy.

Condition(s)/Reason(s)

01. Units 1-41 of the units hereby approved shall be occupied for holiday purposes only and not as a persons sole place of residence. Units 42-50 shall be occupied for residential purposes (as defined by Class C3 of the Town and Country Planning Used Classes Order 1987 as amended).

02. The Leisure facilities building indicated on drawing 1489.2.1.5e shall be provided and made available for use within 36 months of the sale of the 7th unit of units 42-50. Reason:

03. The development shall be carried out in accordance with the phasing drawing 1489.1.7.3P. The provision of units x to y and leisure facilities building shall be completed within 36 months of the sale of the 7th unit of units 42-50. Reason:

Relevant Policies

-

Application Number

V/2013/0004

Site Address

The Corbyn Apartments
Torbay Road
Torquay
Devon
TQ2 6RH

Case Officer

Mrs Helen Addison

Ward

Cockington With Chelston

Description

Proposed modifications to Section 106 (P/1991/0370)

Executive Summary/Key Outcomes

This application was approved at the meeting of the Development Management Committee on 13th January 2014 subject to completion of the S106 agreement within six months. The agreement has not yet been completed and the decision has not been issued. The applicant has requested a revision to the application.

The application, as approved in January, was to allow eight of the seventeen apartments in the building to be used for residential purposes and to be sold separately. The remaining nine apartments would continue to be restricted to holiday use and would be retained in single ownership. The eight apartments to be used for permanent residential use would be located in the southern half of the building.

The applicant has requested the approved scheme be revised to change which apartments would be used for residential use, and which would continue in holiday use. The applicant would prefer to change a ground floor apartment that is designed for disabled use and previously approved for residential use with an apartment in the northern half of the building. The ground floor apartment would now be used for holiday purposes and the apartment in the northern half of the building would be used for residential purposes.

It is considered that this revision would be acceptable as it would not have an impact on the viability of the retained holiday business as the number of apartments in holiday use would not change. There are positive aspects to this revision as it would result in an additional apartment at ground floor level being in holiday use and it would retain an apartment adapted for disabled use in holiday use. This would be beneficial to the tourist industry as ground floor apartments are popular due to their ease of access and there is a limited stock of holiday apartments suitable for disabled use.

The time period for completion of the Section 106 agreement will need to be

extended for a further three month period.

Recommendation

That the terms of the S106 agreement be revised in respect of the division of the apartments between residential and holiday use.

The time period for signing and completion of the S106 agreement be extended for an additional 3 months from the date of this committee.

Statutory Determination Period

The eight week target date for determination of the application was 14th January. The delay in issuing the decision has been caused by negotiations with the applicant about the terms of the S106 agreement and the applicant's request to revise the proposed development.

PREVIOUS REPORT TO COMMITTEE 13.1.14

The report to the Development Management Committee from 13.1.14 is below and contains further detail about the proposal.

Executive Summary/Key Outcomes

This application is a revision of application reference P/2013/0775, which was approved by the Development Management Committee on 14th October 2013, and subsequently withdrawn by the applicant because he wished to make a change to the proposal.

The application is to allow all eight apartments previously proposed for residential use to be sold and to clarify that the short term letting of the remaining nine holiday apartments be permitted between the end of October and 30th April. In comparison with the previous proposal under application reference P/2013/0775 it is now proposed that an additional two residential apartments be sold (previously it was requested that 6 could be sold and this has now been increased to 8).

The revision to the S106 agreement would include the following which were previously considered under application reference P/2013/0775;

- Where an apartment is sold a proportion (as yet to be agreed) of the difference between the value of the apartment for full residential use and the value with a holiday use restriction to be reinvested into the Corbyn Apartments business (i.e. funds to be retained in a bank account and drawn down in respect of agreed works only, e.g. maintenance of the apartments)

- If more than 14 units on the site (including the 8 proposed in this application) are changed to permanent residential use then an affordable housing contribution would be paid to the Council;
- S106 infrastructure contributions would be paid for the eight apartments that are changing to permanent residential use; and
- A monitoring contribution is to be paid in order that the clauses proposed (such as maintaining a register of holiday makers) can be monitored.

As a result of this proposal the following would be included in the S106 agreement;

- The sale of up to eight of the residential apartments, with the remaining 9 apartments retained in holiday use during the summer and in one ownership.
- Eight apartments in the southern half of the building to be used for residential purposes and the nine apartments in the northern half of the building to be used for holiday purposes, with short term letting in the winter months between end of October and 30th April.

The sale of two additional flats previously considered acceptable for residential use would not have an adverse affect on the holiday character of the area and would be consistent with Policy TU6 of the Torbay Local Plan 1995-2011 and the Council's guidance in "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 and would therefore constitute an acceptable proposal in this location.

It would provide sufficient flexibility for the serviced apartment block to continue to operate effectively as a business and would have a limited impact on the character of the Principle Holiday Accommodation Area.

Site Details

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

The application site is a high class and well maintained holiday operation that contributes positively to the holiday character of the locality.

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

Detailed Proposals

This application is to make changes to the modification of the S106 agreement that was considered under application reference P/2013/0775 and was agreed at the Development Management Committee on 14th October 2013. Following the Committee meeting the applicant decided to revise his proposal and withdrew application P/2013/0775.

Planning permission was granted for 17 holiday apartments and associated parking on the site under application reference 91/0370PA. The S106 agreement limits the occupancy of the 17 apartments as it requires that “the units the subject of the said Planning Application 91.0370 shall be permanently retained for holiday purposes only”.

Under application reference P/2013/0775 it was agreed by the Development Management Committee that eight apartments could be used for residential purposes and nine would be retained for holiday purposes, and those 9 also to be let on a short term basis in the winter period between the end of October and Easter. In addition up to six of the residential apartments could be sold with the remaining 11 apartments retained in one ownership. As part of this approval it was agreed;

- that if an apartment was sold then a proportion (as yet to be agreed) of the difference in the value of an apartment as a full residential use compared to a holiday use either to be reinvested in The Corbyn / put into a fund for maintenance of The Corbyn.

- If more than 14 units on the site (including the 8 proposed in this application) are changed to permanent residential use then an affordable housing contribution would be paid to the Council;

- S106 infrastructure contributions would be paid for the eight apartments that are changing to permanent residential use; and

- A monitoring contribution is to be paid in order that the clauses proposed (such as maintaining a register of holiday makers) can be monitored.

The current application is to make a further revision to the above changes to the S106 agreement to allow eight apartments to be sold with the nine holiday apartments being retained in one ownership.

The applicant has also requested confirmation that the definition of the winter

period when the nine remaining holiday apartments may be used for short term letting be revised from the end of October to 30th April. The applicant requested this revision prior to the consideration of application reference P/2013/0775 at the committee meeting but after the committee report was written. This decision has not been recorded in the minutes and is referred to here for clarity.

Summary Of Consultation Responses

N/A

Summary Of Representations

None received.

Relevant Planning History

P/2013/0775	Modification of S106 ref; P/1991/0370 to allow eight apartments to be occupied on a permanent residential basis and the remaining 9 apartments to be used for holiday letting except during the winter months when they could be used for short term letting. Withdrawn 25.11.13
1991/0370	Erection of 17 Holiday Units and associated parking approved 9.3.92
1991/1008	Alterations To Form Caretakers Accommodation To Proposed Holiday Flats Development Reference Number 91.0370.Pa approved 25.9.91

Key Issues/Material Considerations

The principle of changing the use of eight apartments to permanent residential use and the changing the restrictions on the occupation of the remaining nine apartments has been accepted by the Development Management Committee under application reference P/2013/0775. The issue to consider in this case is whether allowing the sale of two additional flats in permanent residential use would have an impact on the holiday character of the area.

Principle and Planning Policy -

In support of the application the agent has advised that the applicant is seeking this amendment “not because there is a current intention to sell any of the apartments but because the modified S106 will be binding for at least five years and in an uncertain market ... there is a need for as greater flexibility as possible whilst providing the Council assurance that the nine holiday apartments will be run as a business”.

The principle of allowing residential use of eight of the apartments on the site has already been accepted. It is unlikely that a change in ownership of two additional apartments would have a significant impact on the character of the PHAA, as there would be no change in the way in which the apartments would be occupied.

The proposed revision to the S106 agreement would require the remaining 9 apartments in holiday use to be within the same ownership. This is seen as a positive aspect of the proposal, as it means the majority of apartments would be operated and run as one business, which would continue to offer fully serviced suite accommodation.

The Council's guidance document "Revised Guidance on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan" March 2010 identifies this site as being within an Amber Area. The guidance states that for Holiday Apartments within an Amber Area conditions on occupancy are likely to be removed. It continues that "it is recognised that a more flexible approach to their occupancy may allow for a better overall contribution to the economy of Torbay. On this basis, the Council will consider favourably applications to relax occupancy restrictions on holiday apartments to allow residential use".

In support of the application the applicant has advised that the Corbyn Apartments is not a viable business providing only holiday lettings. The previously agreed modifications to the S106 agreement would provide other income streams whilst meeting the demand for holiday lettings. However the applicant perceives that the restriction that only 6 of the 8 residential apartments is unnecessary as retention of two residential apartments with the 9 holiday apartments would have no benefit to the holiday business. It is noted that there is currently no restrictions on the sale of any of the apartments on the site and the proposal would ensure that the 9 holiday apartments remained within the same ownership which would make a positive contribution to the holiday character of the PHAA.

It is considered that the proposal would be within the spirit of the guidance on the interpretation of Policies TU6 and TU7 in that it would allow a flexible approach to the operation of the business and retain the 9 holiday apartments in the same ownership.

It should be noted that Policy TU8 in the Torbay Local Plan 1995-2011 allows winter letting of holiday accommodation in the period end of October to Easter with a maximum occupancy period of six months. As such the proposal for winter letting is consistent with policy.

S106/CIL -

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

Waste Management	£ 400
Sustainable Transport	£6,903
Lifelong Learning	£ 158
Greenspace and Recreation	£4,013
South Devon Link Road	£6,545

Admin charge £ 901

Total £18,920

The total payable would be reduced to £17,975 for early payment.

Conclusions

In conclusion, the application is to modify the existing S106 agreement to allow the use of eight apartments for permanent residential accommodation with the remaining nine being retained for holiday purposes. This principle has previously been accepted by the Development Management Committee under application reference P/2013/0775. The revision to be considered is allowing all eight of the residential apartments to be sold by the applicant rather than 6 as was previously agreed. The remaining 9 holiday apartments would remain within the same ownership. A case in support of this application has been submitted that this revision is needed to maintain the viability of the business by introducing flexibility in the way in which the apartments are occupied.

The applicant has requested that the period for short term letting of the 9 holiday apartments is agreed as being between the end of October and 30th April.

It is considered that the proposal would be consistent with the objectives of Policy TU6 and the Guidance on the interpretation of Policies TU6 and TU7 and would therefore constitute an acceptable form of development.

Relevant Policies

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Agenda Item 11

Application Number

P/2014/0286

Site Address

Land At Area 4 South
Scotts Meadow
Off Riviera Way, Browns Bridge Road And
Rear Of 1 - 21 Swallowfield Rise
Torquay
Devon

Case Officer

Mrs Ruth Robinson

Ward

Shiphay With The Willows

Description

Reserved Matters Approval for 155 dwellings pursuant to P/2010/1388 relating to scale, layout and appearance of dwellings together with hard and soft landscape designs, associated roads and footpaths. Information to satisfy conditions 4,5,9,10 and 11 relating to nesting and roosting opportunities, energy efficiency, cycle parking, refuse, phasing, management of retained hedgerows and grassland and submission of Travel Plan.

Executive Summary/Key Outcomes

This reserved matters application is for detailed consent for 155 dwellings at Area 4 South / Scotts Meadow. This follows the granting of consent on appeal for outline permission for up to 155 dwellings on this site.

This application seeks to provide sufficient information to fully describe the layout, scale and appearance of all dwellings on the site. This also includes matters such as landscaping, materials to be used and all boundary treatments.

The outline application granted on appeal was accompanied by detailed conceptual design and landscape plans. These established that a scheme could be devised for the site that would be 'landscape led' and would effect a transition between the more rural countryside character to the west of the site and the more suburban areas to the east.

This landscape led approach to the development is required in order to help ensure that the site's function as an Urban Landscape Protection Area is not unduly compromised.

As such it is vital to ensure that the agreed principles for the development are taken into this detailed submission and follow through to the development on the ground.

In terms of broad principles, the outline approval and this reserved matters application are largely consistent in that the housing development is confined to the same area to the east of the site and the western wedge of unimproved grassland is left free of development. This area will be managed and protected as agreed and secured by the S106 agreement.

The green edges to the site, the steeply sloping grass bank which borders Riviera Way and the tree covered slopes to the east bordering Browns Bridge Road are similarly retained and protected. The site is similarly accessed from Plantation Way and the focal point on entering the site is a well landscaped boulevard, overlooked by dwellings. This is an attractive, well designed space that creates a positive sense of arrival.

The topography of the site is challenging with steep gradients and the layout and use of house types has been evolved to ensure that changes in levels are for the most part taken up within the buildings.

However there remain a number of areas of concern in the detailed layout and design and officers have requested revisions to the plans and further information in order to overcome these concerns. In particular these relate to the provision of:

1. A revised layout to attend to the unimproved grassland lost to vehicular access and car parking. As an alternative to retention on site off-site mitigation for the loss of this grassland will be required. In that event, the site will still require re-planning in order to provide the sense of relief and openness that is required to break up the development at this point.
2. An improvement in the 'green fingers' in order to break up the blocks of houses more effectively.
3. Visual appraisals of the site in terms of strategic views to ensure that the development, which is visually prominent from the other side of the valley and when entering / leaving Torquay, is acceptable.
4. A more comprehensive set of street elevations showing the buildings coupled with landscape settings to show true integration with footways and open space.
5. A better relationship to the green edge of the site to equate with the gateway status requested by the DRP and to better relate to the retained open space of the ULPA.
6. Additional sections have also been requested along the landscaped edge to site.
7. Car parking strategy / greater use of appropriate tree planting. Details of pergolas and planting schedules / maintenance strategies. Gateway detailing to confirm a sense of place.
8. Landscape variations re types of planting.
9. Further consideration to the use of natural slate for roofing material.

10. Further assessment of external boundary treatments, particularly in relation to strategic views and public areas.

Recommendation

Committee Site Visit: Conditional Approval; subject to the submission of revised plans and additional information to resolve the 9 matters identified in the body of the report. It is requested that delegated authority is granted to the Director of Place to agree these revisions/additions to the scheme.

Statutory Determination Period

The 13 week deadline is on the 16th July. The applicant has agreed to submit an extension of time letter to allow the submission of revised plans and additional information following the Committee agreeing in principle with the Officer recommendation.

Site Details

Area 4 South or Scots Meadow as it is more widely known, is a prominent area of grassland bounded by the A3022 (Riviera Way) to the south, Kingskerswell Road to the west, and Browns Bridge Road to the east. To the north is Swallowfield Rise.

The site is sloping and south facing, and is key in long views across the valley, the land acts as a 'gateway' on the main approach into Torquay, forming a transition between the suburban character to the edge of the town and the more open countryside to the west.

To the north and east of the site is the Willows, a residential estate of about 1500 dwellings which was approved in the late 1980s, close by to the east is its busy District Centre. This has a suburban character typical of its time. Across the valley is the low density suburban settlement of Shiphay which is long established and enjoys views across to the application site.

The site itself comprises a mix of habitats but is predominantly open unimproved grasslands with mature hedgerows, which are of ecological significance, that partly border and bisect the site. A steeply sloping highway bank defines the southern border to the site. This contains an important habitat of unimproved grassland and includes wild orchid colonies which are quite rare.

The area is defined as an Urban Landscape Protection Area in the saved Adopted Torbay Local Plan 1995-2011 as a consequence of its prominence, its function as a gateway to the town and its position in relation to adjacent countryside areas. It is much valued by local residents for its visual, ecological

and biodiversity qualities and for the relief it offers in an area where a significant amount of new development has been implemented or is in the pipeline.

Outline planning approval for 155 dwellings on the site was granted following an appeal in 2013. Although detailed concept plans accompanied the application indicating a strong landscape led approach to development of the site, the approval only fixed 'access' leaving all other matters for future approval.

This application seeks approval for 'Reserved Matters' associated with the outline approval and other conditions imposed on the consent.

Detailed Proposals

This submission seeks to provide sufficient information to fully describe the layout, scale and appearance of all dwellings on the site. This also includes matters such as landscaping, materials to be used and all boundary treatments.

The application also seeks to discharge:

Condition 4 which required details of nesting and roosting facilities as detailed in the Revised Ecological Management Plan, an Energy Efficiency Report detailing the measures incorporated in the design of the scheme to maximise the energy efficiency of the site, it also required details of cycle parking provision for each property and a refuse strategy demonstrating that each property has adequate and accessible provision for the disposal of waste and recyclable material.

Condition 5 which this application also seeks to discharge, requires a Phasing Plan to be submitted which is required to include details of pre construction ecological management operations, implementation and timing of all highways works, parking facilities, landscaping works and foul and surface water drainage infrastructure. It is also required to include a lighting strategy, a Construction Method Statement for each phase and a timetable for completion of the Play Areas and Trim Trial and provision of Public Open Space.

Condition 9 required details of the management regime for retained hedgerows and retained grassland areas.

Condition 10 required details of measures to be employed to prevent degradation of open spaces and ecologically important areas by recreational use of the site.

Condition 11 required submission of a Travel Plan.

This leaves conditions 6,7 and 8 which are pre commencement conditions to be discharged before development can be started.

Summary Of Consultation Responses

Environment Agency: Have no objections providing the attenuation scheme is implemented in accordance with the submitted plans and written agreement is obtained that it will be maintained for the life time of the project.

Natural England: Have no objections providing the advice given at outline stage is reflected in the current scheme.

Strategic Transport: Observations awaited.

Highways: Observations awaited.

Arboriculturalist: Has concerns about tree species selected for the landscaping of the site in terms of their longevity and stature.

Architectural Liaison officer: Raised a variety of concerns relating to the security of design and these will be considered in the relevant section below.

Drainage: Requires more information in relation to the detailed design of the drainage system before consent can be granted and the condition discharged.

Teignbridge Council: Rraise no objections to the scheme.

The application was considered by the *Design Review Panel* at its meeting of the 3rd May. The main conclusions were as follows:

- a. That the site should be conceived as a 'gateway site'
- b. forming the 'edge condition' to the settlement. The posture of the development both locally to the fringe of protected landscape and to its broader landscape setting will be important.
- c. A less contained and more open parkland frontage 'with a confident integrated treatment' was considered the right approach which could recast the image of the bay at a key location. The
- d. cross sectional design should play a leading role in the layout of the estate.
- e. In terms of a landscape led approach the topography and hedgerows should be seen as generators of the layout and its urban design. Buildings and opportunities for movement throughout the site should respond positively to this.

- f. Connectivity could be a challenge and pedestrian and cycle movement needs to be carefully developed.
- g. The site naturally falls into distinct pockets which can be built on in terms of creating smaller identifiable neighbourhoods within the layout. This should be reinforced with a restricted number of distinct house types to create local character.
- h. In terms of parking, the large number of shared courts are not favoured. The panel would prefer to see a mix of on street, off street and a modest proportion of courtyard parking limited to 5-6 dwellings. It was recommended that the car parking strategy be reviewed in order to comply with landscape demands of the site.
- i. The scattered pockets of open space should be redeployed in key locations where it can be more closely integrated with the 'green infrastructure' of the site creating corridors of movement and ensuring management and retention of hedgerows.
- j. The sustainability of the site should be fully explored and the south facing slopes present good opportunities to maximise passive design.

The DRP assessment generated a revised layout through a workshop event. In broad terms this involved a looped access road with perimeter blocks radiating from this with fingers of landscape separating the outward facing fronts. In recognising the topographical complexities of the site, a detailed cross sectional analysis of the eastern portion of the site was considered necessary before a layout could be successfully evolved.

Summary Of Representations:

There have been 6 letters of objection. 5 are primarily objections in principle to the development of this site. The principle has already been clearly established by the outcome of the appeal.

One letter includes comments about the poor quality of the proposed scheme, 1 expresses concerns about wildlife and 1 about the need for wide roads to prevent pavement parking. One letter specifically raises site specific matters in relation to loss of privacy from the inclusion of 3 storey properties along Swallowfield Drive. These matters will be addressed in the relevant section below.

A Member of the Stakeholder Consultation Group wrote expressing broad support for the scheme considering it to be modern and well designed. They did voice concern about the replacement of good quality surfacing materials on the 'boulevard' with tarmac and requested that the issue of privacy in relation to Swallowfield Rise be fully considered. These matters are addressed below.

These representations have been sent electronically for Members consideration.

Relevant Planning History

P/2010/1388: Outline application fixing access only for 155 dwellings.
Refused subsequent appeal allowed....

Key Issues/Material Considerations

The outline appeal decision (P/2010/1388) only fixed access leaving all other matters, layout, scale, design, appearance and landscaping to be reserved for later approval.

The outline scheme was accompanied by detailed conceptual design and landscape plans that sought to establish that a scheme could be devised for the site that would be 'landscape led' and would effect a transition between the more rural countryside character to the west of the site and the more suburban areas to the east. This was required in order to help ensure that the site's function as an Urban Landscape Protection Area was not unduly compromised.

The original outline application indicated that around 40% of the site would be left as open space and that substantial elements within the design of the estate would be 'green' to reinforce the landscape qualities of the site and to mitigate the impact on views from Shiphay.

This involved retaining as open space the western wedge of green unimproved grassland which is a BAP priority habitat and the existing green perimeter to the site, retaining and reinforcing the existing network of hedges that divide the site and including generous planting swathes within the body of the estate.

In terms of the broad layout form and scale, it is necessary to consider to what degree the Reserved Matters submission delivers the promise of the indicative conceptual plans.

Within this, the issue of security of design, the amenity of neighbouring properties and the quality of architectural treatment/materials can be given consideration. It is also necessary to consider to what degree the remaining conditions are satisfied.

Do the Reserved Matters Deliver a Landscape Led Approach to Development?

In terms of broad principles, the outline approval and this reserved matters application are broadly consistent in that the housing development is confined to the same area to the east of the site and the western wedge of unimproved grassland is left free of development and will be managed and protected as agreed and secured by the S106 agreement.

The green edges to the site, the steeply sloping grass bank which borders Riviera Way and the tree covered slopes to the east bordering Browns Bridge Road are similarly retained and protected. The site is similarly accessed from Plantation Way and the focal point on entering the site is a well landscaped boulevard, overlooked by dwellings. This is an attractive, well designed space that creates a positive sense of arrival.

An informal series of shared spaces for pedestrian and vehicular movement form a looped route around the site from which radiate loosely arranged blocks of housing. These are grouped in distinct pockets reflecting subtle changes in design and materials to create 'free standing small communities' within the wider development.

The topography of the site is challenging with steep gradients and the layout and use of house types has been evolved to ensure that changes in levels are for the most part taken up within the buildings to avoid the use of retaining structures of the sort which are prevalent on the neighbouring estate. House types vary from reverse level 2/3 storeys to single storey bungalows to pick up changes in level across the site.

Permeability is strongly embedded in the overall layout of the scheme with a series of footpaths which link the site with the wider area and the existing hedgerows are protected and create through the inclusion of footpaths along their length a key component of the landscape of the site.

The intention is to introduce a more modern contemporary design and palette of materials that will set this apart from the more suburban character of the Willows and help create a scheme of some quality that will form the a new gateway to the town. External works are proposed to be a rustic mix of Devon banks, stone walls, timber detailing.

There are detailed landscape proposals with an ambition of creating green fingers of landscape to push up through the blocks of dwellings reinforcing the transitional role of the site in terms of landscape function.

In terms of the detail of the scheme, the translation from conceptual analysis to reality is often fraught, as site constraints such as the acuteness of levels and other topographical issues can inhibit implementation of the scheme as envisaged.

In simple terms, once the site constraints are more clearly understood, accommodating the specified number of units in the way shown becomes difficult and poorly arranged cramped layouts can result. This is often only evident in detailed applications.

In this case, the steepness of the levels on the site, have led to 2 major changes to the 'outline' layout.

The original layout included a loop road which was required to be of a sufficient width to allow buses to navigate. The width of the road, the need to include footways and the severity of the slope meant that significant excavation would have been required along with the construction of extensive retaining structures. This would have resulted in a particularly engineered structure with a significant land take and dominating impact.

Highways agreed an alternative vehicular movement strategy which, whilst denying bus access, delivers a more pedestrian and visually friendly solution. This includes reduced width roads and informal shared spaces which are more conducive to a landscape led form of development.

The second significant change to the layout involves the loss of the indicative play area and its associated open space which, in the outline scheme was shown to occupy an area of unimproved grassland in the south eastern portion of the site. Due to the levels across the site the applicant states that it has not been possible to access the most south easterly portion of the site, which contains around 50 dwellings, without sacrificing this area of open space to provide vehicular access. Further dwellings are now proposed along the new access road and as such this space is now shown as substantially developed.

Whilst the play equipment has been relocated, it is not as centrally located as it was in the outline application and the space lacks the relief and break in the urban form that was envisaged. There are also biodiversity implications as the land is unimproved grassland which is a priority BAP habitat.

The applicants have been asked to look at this again. Whilst it may be possible to mitigate for the loss of the BAP grassland habitat off site, this would not be ideal.

Otherwise, the broad layout of the developed area is consistent with the outline application.

The DRP made a series of suggestions regarding the layout and internal detail of the built area; how it should address the landscaped edges of the site particularly along the southern boundary creating a 'parkland gateway' and so the 'edge condition' to the settlement. The DRP also commented on how it should rationalise the incidences of green space and create a more integrated structure to the site built around the existing hedgerows and topographical features. A small group of distinct house types and a rationalised parking strategy could help deliver a 'sense of place'. Whilst the broad principles are embodied in this application there is some question in relation to the detail.

The site broadly falls into a lower density arrangement of dwellings to the north of the site where the traffic noise is reduced and level changes are gentler with a tighter more dense arrangement of dwellings to the south. This is largely where the topography is most challenging and the impact of traffic is most apparent. This has raised a number of matters of concern in relation to the layout, arrangement and relationship of dwellings.

A detailed critique was sent to the applicant on the 1st May raising a series of concerns about:

- 1, the visual impact of some dwellings particularly those along the eastern ridge,
- 2, the relationship of dwellings on the margins of the site to the retained swathes of open space and footpath links,
- 3, the degree to which this relationship created the 'parkland gateway' envisaged by the DRP,
- 4, whether the redeployment of incidental pieces of open space to create a meaningful landscape / movement strategy built around the hedgerows was successful, and;
- 5, whether the extensive areas of parking courts, which had already been criticised by the DRP, were acceptable in design terms

The poor 'front to back' relationship of some dwellings to pedestrian routes and the poor streetscape created by dwellings presenting side elevations to the street has also been challenged, as was the use of artificial rather than natural slate for the roof finish. Some of these points were echoed in the Architectural Liaison Officers comments along with more detailed comments about the inclusion of numerous routes into private areas which could compromise security.

This called for a substantial amount of additional information to be supplied in respect of sections through various parts of the site to allow a better understanding of how dwellings related to areas of open space/footways. Furthermore there is a need for an increase in the number of street elevations supplied so that a clearer understanding of the appearance and visual integration of building with landscape is possible. An improved strategy for parking design, an uplift in the quality of materials and a significant amount of redesign in terms of layout and house types is also needed to ensure a satisfactory relationship to primary frontages. This information has been supplied in part, although too close to the deadline for this committee report to allow a detailed assessment of the changes.

It is possible to confirm that the relationship of plots 1-5 along the eastern ridge is now shown to be satisfactory, subject to the improved quality of boundary treatment extending all around the garden plots. In respect of plot 119 it needs to be shown that the side view is appropriately detailed in terms of boundary treatment and that supplementary planting to the gap in the woodland edge is delivered as the applicant promised.

It is also demonstrated that the relationship to properties along Swallowfield Rise is acceptable. The section indicates a minimum back to back distance of 23m and only a 2 storey face to the rear of the new dwellings rather than three as feared by the objectors.

Concerns about the arrangement of plots 8-35 are now resolved and the rear area, which in the original submission had the character of a parking court is now stronger in terms of natural surveillance and has assumed a more street like character.

In terms of layout and scale it is now the case that plots 1-59 are acceptable.

The balance of the plots, 60-155 where the density is higher, the levels are more acute, and the relationship to open space more critical, are still not wholly resolved. Street elevations that include the building and its associated landscaping may assist in determining whether the scheme gets close to delivering the 'parkland' edge and whether the network of footpaths are truly overlooked and integrated. Several key street elevations were requested but have not, at the time of writing, been supplied. Neither have the visual appraisals showing the site in key strategic views. More work on the critical 'green fingers' of landscaping has also been requested.

An illustration of the need for a more detailed representation of visual impact and relationship to the open space is typified by plots 60 to 92. This area abuts the retained grassland alongside Browns Bridge Road.

The footpath, which is a prominent public route is overlooked by the rear of a garage block and flank elevations of 2 dwellings which are side on to the open space. Following concerns, these dwellings are to be 're-elevated' to provide

some improved relationship with the public footway and a street elevation provided. This, coupled with sections to illustrate the change in levels may show that this is a perfectly acceptable relationship that will deliver the 'edge condition' to the town that the DRP felt the scheme should achieve. However, this has so far not been demonstrated.

The applicants were also requested to refine their car parking strategy. The original submission relied heavily on the use of extensive parking courts rather than a mix of in curtilage parking, some on street parking with small well landscaped courtyards. This results in a very dense urban character which does little to create a 'green character' to the site. The greater use of pergolas which are described as having 'masonry piers which will better stand the test of time' are suggested by the applicant. However, no drawings or planting schedules have been supplied to confirm the 'improved' appearance. It may be that more tree planting in smaller courts which in time will substantially increase the green cover of these areas may be a better option, but this does require some further analysis. The applicants were also requested to provide some detail of the entrance features to the courtyard parking. These could be designed in a way to bring some unity to the street scene, help create a sense of place and make it evident that these are 'defensible' private areas. Again, this has not been provided yet.

In terms of materials, the use of render, weatherboarding, natural stone plinths and grey UPVC windows is proposed. The use of 'lindab' rainwater goods on the lower density, more expensive dwellings is welcomed. However, this is largely confined to the less publicly visible parts of the site and the more highly visible dwellings are treated in UPVC. Nonetheless, the use of stone and weatherboarding does create a modern contemporary feel to the dwellings which sets it apart from the more traditional suburban dwellings within the Willows.

The roofscape will be a major feature of the site, particularly in long views across the valley and from key strategic vantage positions. For this reason, the use of natural slate rather than a fibre cement finish is thought a more appropriate solution. The applicants consider the palette offered is 'of a higher quality than those prevalent in the adjoining development'. However, the design and access statement promotes the scheme as using high quality, **natural** materials and given its ULPA status and gateway function the use of a material that will give such a prominent piece of townscape a better colour, texture and sheen seems wholly appropriate.

The external walls are shown to be a mix of natural stone and render which is acceptable, although the incidence of natural stone walling may need to be increased in certain critical points. The use of timber fencing in prominent positions is not encouraged and given the late/incomplete nature of the information, this requires further assessment.

The applicant has proposed a range of surfacing materials to produce a variety of pedestrian spaces within the scheme. The aim is to produce a series of shared spaces serving both vehicular traffic and promoting pedestrian movement. Highways are reluctant to adopt some of these materials and the use of granite setts in the entrance square has been replaced by buff tarmac due to concerns about maintenance. This change has been criticised by the Stakeholders meeting who wish to see good quality surface materials retained. Currently Highways formal comments are awaited and this will have to be updated at the meeting.

There are numerous footways, some concentrated around the existing hedgerows to create a green infrastructure, which links the site to its surroundings. This permeability is a positive aspect of the site design. However it is important that they are well integrated with the housing and fully overlooked and do not unnecessarily encourage the casual wanderer to compromise the residents' expectations of personal security. This is a difficult balance to achieve and the Architectural Liaison Officer has commented on instances of unwarranted security breaches and has asked for greater overlooking of footpaths and car parking courts. This can be assessed better when the additional information in relation to street elevations and house types is available.

In terms of landscaping, whilst the broad concepts are acceptable, the species, particularly trees are not the most suitable or long lived and alternative tree species are being sought. This should be reconsidered once the layout is fully resolved. The prominence of the green fingers may be enhanced by more strategic tree types.

To sum up the following matters still require attention to produce acceptable reserved matters that will meet the promise of the original outline and the suggestions of the DRP.

1. A revised layout to attend to the unimproved grassland lost to vehicular access and car parking. As an alternative to retention on site off-site mitigation for the loss of this grassland will be required. In that event, the site will still require re-planning in order to provide the sense of relief and openness that is required to break up the development at this point.
2. An improvement in the 'green fingers' in order to break up the blocks of houses more effectively.
3. Visual appraisals of the site in terms of strategic views to ensure that the development, which is visually prominent from the other side of the valley and when entering / leaving Torquay, is acceptable.
4. A more comprehensive set of street elevations showing the buildings coupled with landscape settings to show true integration with footways and open space.

5. A better relationship to the green edge of the site to equate with the gateway status requested by the DRP and to better relate to the retained open space of the ULPA. Additional sections have also been requested along the landscaped edge to site.
6. Car parking strategy / greater use of appropriate tree planting. Details of pergolas and planting schedules / maintenance strategies. Gateway detailing to confirm a sense of place.
7. Landscape variations re types of planting.
8. Further consideration to the use of natural slate for roofing material.
9. Further assessment of external boundary treatments, particularly in relation to strategic views and public areas.

In addition to satisfying the reserved matters, the application seeks to discharge:

Condition 4: Details of nesting and roosting facilities, energy efficiency, cycle parking and waste strategy.

Condition 5: Phasing plan, implementation of pre-construction ecological operations, highway works, parking, landscaping, drainage, lighting strategy, construction method statement and timetable for completion of play areas, trim trail and public open space.

Condition 9: Management regime for retained hedgerows and grassland.

Condition 10: Measures to prevent degradation of open space

Condition 11: Travel Plan.

In respect of condition 4, a report detailing how the measures incorporated into the design of the scheme have maximised the energy efficiency of the site has not been supplied, neither has the phasing plan required to satisfy condition 5. This also requires submission of a lighting strategy and construction method statement which are not provided. The matters relating to the ecological management of the site have been supplied and for the most part are acceptable.

Condition 11 is satisfied by the submission of a Travel Plan. It has a target of reducing car journeys by 10% which is a fairly modest ambition. Highways comments on the acceptability of this target and the means of achieving this is awaited.

Conditions 6, 7 and 8 which are also pre commencement conditions have not been applied to be discharged and will need to form the basis of a further application.

Conclusions

In terms of satisfying the reserved matters, revised plans and further information are required to confirm an acceptable scheme as detailed above. The matters are of detail rather than strategic significance and it is therefore recommended that approval of revised plans and the other outstanding information is delegated to the Director of Place to agree.

Relevant Policies

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Application Number

P/2014/0363

Site Address

Marine View
8 Peak Tor Avenue
Torquay
Devon
TQ1 2DS

Case Officer

Verity Clark

Ward

Wellswood

Description

Extension & Alterations

Executive Summary/Key Outcomes

The proposal is for an extension to the existing garage. The proposal will extend the width of the garage closer to the side boundary and will extend past the front elevation of the dwelling.

The proposal is considered to be acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance of the locality.

The application is deemed to be acceptable for planning approval subject to the addition of a condition restricting the use of the extended roof.

Recommendation

Committee Site Visit; Conditional Approval

Statutory Determination Period

8 weeks, expired 18.6.14, this application has gone over time due to the need to report to the Development Management Committee.

Site Details

The application site is Marine View, 8 Peak Tor Avenue. The dwelling is a detached property located on the North side of Peak Tor Avenue. The existing building features a flat roof garage with access gained from the front of the property.

The site is located within the Lincombes Conservation Area.

Detailed Proposals

The proposal is for alterations and extensions to the current garage. The proposed extension of the current flat roof garage will extend the width of the

garage by 2.1 metres and increase the depth by an additional 3.2 metres. Additional alterations include the provision of a new garage door, three windows and a door to the ground floor west side elevation.

Summary Of Consultation Responses

None

Summary Of Representations

2 objections have been received from the adjacent properties; 7 Peak Tor Avenue and 9 Peak Tor Avenue. Issues raised:

- Impact on the streetscene within the Conservation Area
- Impact on neighbour amenity by way of reduced privacy
- Inappropriate scale and appearance
- Impact on neighbour outlook
- Overdevelopment of the plot

These representations have been sent electronically for Members consideration.

The application is coming before the committee at the request of the committee Chairman.

Relevant Planning History

P/2009/0396	Conservatory at side. APPROVED 30/06/09
P/2005/2007	Extension. APPROVED 12/01/06
P/1997/0030	Alterations And Garage Extension. APPROVED 03/03/97
P/1981/2991	Alts To Form Additnl Garage. APPROVED 11/12/81

Key Issues/Material Considerations

The key issues to consider in relation to this application are the impact the proposal would have on the character and appearance of the streetscene within the context of the Lincombes Conservation Area and the amenity and privacy enjoyed by the occupiers of neighbouring properties.

The proposal is considered to be an appropriate addition to the original property and the wider streetscene. The proposed extension of the flat roof garage will extend the garage by 2.1 metres closer to the west side boundary. This will result in the side elevation coming closer to the side boundary. It is considered that this is an acceptable addition to the existing property.

The proposed extension will potentially require the removal of part of the boundary planting with the construction of the extension however the impact of

the single storey element on the adjacent dwelling is not considered to be unduly dominant.

The garage will extend beyond the building line of the principle elevation. Due to the set back nature of the dwelling within the curtilage the impact of the increased length of the garage is not considered to have a significant impact on the streetscene and will therefore preserve the quality of the streetscene within the Conservation Area. The design of the proposal is considered to maintain the character and appearance of the existing dwelling. The existing footprint of the dwellings on the North side of Peak Tor Avenue are characterised as wide building that extend close to the boundary of the curtilage and the proposal is therefore considered to be consistent with the urban grain of the locality.

The proposal is deemed to have an acceptable impact on the privacy and amenity of neighbouring properties. The garage includes the provision of a door and an additional three windows to the ground floor of the West side elevation. This addition is considered to be acceptable in terms of impact upon neighbour amenity. It is acknowledged that the proposed extension of the garage will result in an extension that is situated in close proximity to the boundary of the curtilage. It is however considered that the ground floor windows will not impact further upon neighbour amenity by way of reduced privacy. At first floor, the dwelling already has a balcony with direct views into the adjacent property's side and front elevation. The impact of the proposed ground floor windows at a closer proximity is not considered to be further detrimental to neighbour amenity.

In order to preserve neighbour amenity a planning condition will be required to restrict the use of the top of the proposed garage to prevent the further expansion of the first floor balcony.

S106/CIL -
N/A

Conclusions

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

Condition(s)/Reason(s)

01. The existing first floor balcony shall not be extended out over the flat roof of the garage extension hereby approved. The flat roof of the garage extension shall not be accessed other than for maintenance purposes only.

Reason: To preserve the amenity of the surrounding occupiers in accordance with policy H15 of the Saved Adopted Torbay Local Plan 1995-2011.

Relevant Policies

- BES Built environment strategy
- BE1 Design of new development
- BE5 Policy in conservation areas
- H15 House extensions

Application Number

P/2014/0501

Site Address

Lansdowne Hotel
Old Torwood Road
Torquay
Devon
TQ1 1PW

Case Officer

Mrs Helen Addison

Ward

Wellswood

Description

Demolition of existing building, construction of 14 No apartments with underground parking, revision to vehicular and pedestrian access

Executive Summary/Key Outcomes

The application is to demolish the existing vacant hotel on the site and to construct a modern four storey building that would provide 14 apartments with underground parking. The proposed building would be higher than the existing building on the site, but would have a smaller footprint. The curtilage would be landscaped to provide communal grounds for the occupants.

Recommendation

Committee Site Visit: Conditional Approval; subject to the receipt of satisfactory further information relating to trees on the site and; subject to completion of a S106 agreement. The S106 agreement is to be completed by 27 August or the application shall be refused for reasons of a lack of 106 agreement.

Statutory Determination Period

This is a Major Planning Application. The 13 week target date is 27th August 2014. The S106 agreement will need to be completed on or prior to this date in order to issue the decision within the target period.

Site Details

The application site relates to a vacant hotel situated on the north side of Babbacombe Road. The hotel is in a prominent location clearly visible from Babbacombe Road. It is set back within the site and is at a higher level than Babbacombe Road. The building was originally a Victorian villa but it has been substantially extended in the past including a large two storey wing on the north side of the building. The Victorian character of the building has been largely eroded by the number of extensions that have been added to the building. Babbacombe Road abuts the southern side of the site and Old Torwood Road the western boundary. The access to the site is from Old Torwood Road.

The surrounding area is in a variety of uses. There is a restaurant on the opposite side of Old Torwood Road. Glenthorne Close is a modern cul de sac and is located on the north side of the site. There are residential properties along Babbacombe Road and a hotel close to the application site. In the Torbay Local Plan 1995-2011 the site is shown as being within the Warberries Conservation Area.

Detailed Proposals

The application is for demolition of the existing building and redevelopment of the site with 14 apartments. The apartments would be in a single four storey building with underground parking at basement level. The proposed building would be sited in a similar location to the existing hotel, which would be set back within the site. The vehicular and pedestrian access would be moved further to the north of the site in comparison with the existing access, which would be further from the junction with Babbacombe Road. The main access would be from Old Torwood Road. The vehicular and pedestrian access points would be adjacent to each other. The pedestrian access would be routed through the grounds of the proposed development. There would be a number of shallow steps to the pedestrian route. In order to provide a ramped access (without steps) to the site a second gated pedestrian point of access is proposed from Glenthorne Close.

The proposed development will be laid out with four apartments on each of the ground, first and second floors. On the third floor there will be two apartments. Each apartment will have two bedrooms. The building is to have a contemporary appearance. It will pick up design elements from Victorian architecture such as the use of symmetry and vertical proportion.

The west elevation will face Babbacombe Road and have a projecting 'giant order' framing device with modular components on either side. The third storey is to be recessed behind the main building line. The proposed building will have a flat roof. The design includes a number of glazed balconies. The materials palette includes painted render and cladding panels. A limestone plinth is to be constructed around the base of the building. This would form a plinth on the western side of the building and would enable ground floor outdoor amenity space to be provided.

Windows and doors are to be dark grey aluminium. The main entrance to the building will be on the northern side (ie facing Glenthorne Close). Twenty one car parking spaces, including a disabled space, are indicated within the underground parking area. In addition a cycle store would be provided at this level. A lift is to be provided within the building that would extend down to the underground parking level. A bin store would be provided adjacent to the access onto Old Torwood Road.

A landscape concept plan has been submitted that shows the regrading of the garden to create usable amenity space for residents. This includes the provision

of a level lawn area and paved patio to allow communal activities. Large blocks of evergreen shrubs and accent planting are also proposed.

Summary Of Consultation Responses

Highways: No objection. Requests vegetation on site at the access to be cut back. Also requests a S106 sustainable transport contribution.

Police Architectural Liaison Officer: Recommends a number of design features that would reduce the risk of crime.

Arboricultural Officer: Requests submission of a tree report

Drainage: Requests details of where soakaways are to be located and details of infiltration testing. The applicant must demonstrate that surface water drainage will not result in any increased risk for flooding to properties or land adjacent to the development.

Conservation Officer: No objection to the demolition of the existing building. Advises that the proposal would be a significant improvement to the conservation area and recommends approval.

Summary Of Representations

Three letters of representation received that raise the following issues;

- Building is too high and will overshadow Glenthorne Close
- Pleased that it is not as big at ground level as the hotel at present
- Will overlook property particularly at the back and will invade privacy
- Concerned that without double yellow lines visitor parking will overflow into the Close
- Drivers will ignore the one way system, written signs are needed eg no left turn into Old Torwood Road and no exit onto the Babbacombe Road.
- Proposal should have adequate parking for occupants, visitors and deliveries.
- Old Torwood Road should be narrowed to prevent drivers in Babbacombe Road turning round
- The proposed landscaping should be undertaken and the trees etc should be planted and not forgotten

These representations have been sent electronically for Members consideration.

Relevant Planning History

P/2012/0112	Redevelopment to provide 14 dwellings with vehicular and pedestrian access, demolition of existing hotel buildings. Withdrawn 2.6.14
P/2011/0732	Demolition of hotel buildings withdrawn 7.2.12

P/2011/0731	Demolition of hotel buildings and redevelopment to provide 14 dwellings withdrawn 7.2.12
1996/1217	First floor bedroom extension approved 3.2.97
1990/1551	First and second floor extensions to provide additional bedrooms and formation of additional parking spaces refused 23.10.90

Key Issues/Material Considerations

The main issues are the loss of a hotel use from the site, the principle of residential development in this location, whether the siting and design of the proposal would be acceptable, highways, impact on the amenity of adjoining occupiers, and S106 contributions.

Principle and Planning Policy -

Policy TU7 in the Torbay Local Plan 1995-2011 is relevant to redevelopment of hotels outside the Principal Holiday Accommodation Area (PHAA). This Policy sets out three criteria to assess a proposed loss of holiday accommodation.

These criteria are; firstly, whether the loss of holiday accommodation would undermine the holiday character of the locality or the range of tourism facilities in the Torbay. In this case the area around the application site does not have a distinctive holiday character. The only other holiday use in the vicinity of the site is the Burlington Hotel which is located on the opposite side of Babbacombe Road. A holiday character is more apparent further west along Babbacombe Road where there is a concentration of properties in holiday use, approaching the clock tower closer to the harbour. There is not a notable holiday character in the vicinity of the application site. It is also noted that the property has been vacant for a number of years, and therefore has not made a contribution to the tourist industry for some time. Consequently it can be concluded that the proposed change of use would not impact on the range of facilities available in Torquay.

The second criteria relates to an assessment of the significance of the holiday setting, view and relationship to tourism facilities. The application site is not significant in terms of its contribution to the tourist industry. It is located too far from the harbour and beaches to have a meaningful relationship with holiday facilities in Torquay. There are no important views from the site, and the site is not significant in terms of its setting to warrant retention of a holiday use in this location.

The third criteria relates to whether the new use would be compatible with the character and other uses in the area. The predominant use of other buildings in the area is for residential purposes and therefore the proposed use would be consistent with the established character of the area. It would be an appropriate use in this location and would contribute to providing new housing for which there

is a need in Torbay.

Guidance on the interpretation of Policies TU6 and TU7 is contained in the Council's guidance document "Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan". In this guidance it is advised that for medium sized hotels (11 to 49 bedrooms) outside the PHAA residential use is likely to be allowed.

Demolition of the existing building

The proposed development would involve the demolition of the existing building. Given that this is a Conservation Area it is important to consider the principle of the loss of the existing property.

The former hotel has been substantially extended and altered and does not retain its original Victorian character. The appearance of the building does not make a positive contribution to the character of the Warberries Conservation. The Conservation Officer and a representative from English Heritage were present at the Design Review Panel Meeting. Given the existing situation and the exemplary design of the replacement building in its context, there is no objection to the demolition of the building and the redevelopment of the site in the proposed form.

Siting and design of development -

There has been considerable previous negotiation in respect of the form of development that would be acceptable on this site. It can be seen from the history that two planning applications have been submitted and withdrawn, as previous applicants were unable to devise an acceptable solution for the site. Previous schemes have included a principle building and ancillary mews type development. This resulted in a far greater level of site coverage with buildings and parking areas than is currently proposed.

The current applicant submitted a pre application enquiry prior to the submission of the planning application that was considered by both officers and the Design Review Panel (DRP). A copy of the DRP report is included with the representations. Essentially the DRP support the principle of the development. The panel endorsed the principle of developing the site with a single building and the use of underground parking. They were very supportive of the design approach that has been adopted.

The panel felt that the siting and orientation of the building was appropriate and had increased the quality of the scheme. The DRP was of the opinion that the height of the building "was not inconsistent with the approach of many of the existing villas typical in the area and seemed to provide a building that sat well

within the wider environment and the landscaped surroundings”.

The proposed building will be sited in a similar position on the site ie set back from the boundary with Old Torwood Road and would have a smaller footprint than the existing building. The orientation reflects that of the existing building, facing south west down the valley towards the harbour. Locating the building at the rear of the site respects the character of Victorian development in the area through providing space around a large building, which makes an important contribution to its setting.

The reduction in the footprint of building on the site is welcomed as this would enable more landscaping and amenity space to be provided around the building. The use of underground parking avoids the need for surface parking and enables an enhanced appearance to the ground around the building. It is less common in Torbay to see underground parking provision incorporated into a proposal. It provides an important advantage to the appearance of the development as it removes the visual intrusion of cars within the curtilage and provides additional space for landscaping. This approach is seen as a positive attribute of the proposed development.

The design of the proposed building would echo design principles of Victorian architecture, with a modern contemporary appearance. Paragraph 59 in the NPPF states “design policies should avoid unnecessary prescription or detail”. Paragraph 60 continues that planning “decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.

The design of the proposed building would provide a high quality form of development on the site. The design would provide articulation to the building through the variation of building lines and heights. The external appearance would comprise varied heights and forms that would break up the mass of the building and add significant interest to its appearance. It would also make the scale of the building easier to read and visually accessible. The use of symmetry would contribute to a balanced and pleasing appearance. The recessive appearance of the third floor would be reinforced by it being set back from the building line and also through the use of dark grey panels. This would draw the eye away from the top storey of the building towards the lower parts of the building.

In the materials palette render would be predominant to reflect the appearance of the majority of buildings in the immediate area. More contemporary materials such as frosted glass panels and dark grey cladding panels will contribute to the contemporary form of the building.

In comparison with the existing building on the site the proposed development

will be higher by approximately 3 metres. However, it is considered that the site is capable of accommodating the proposed building without resulting in harm to the appearance and character of the Warberries Conservation area. This is due to the siting of the proposed building which would be set back on the site and also due to the amount of space around the building. This would reduce the visual impact and assist in assimilating the building into the street scene.

As the site is located on the corner of Babbacombe Road and Old Torwood Road there is an opportunity for it to accommodate a taller building, as it would not need to conform to the height of other buildings in the locality which are predominantly two storeys. The scale and proportion of the building works well at the proposed height, a lower building would have less presence and would lack the proportion of the design objective to echo the appearance of a villa. The proposed height of the building has significantly reduced the site coverage in comparison with previous submissions which makes an important contribution to the overall appearance of the proposed development. It should be noted that the DRP commented that they considered the proposed height of the building would be acceptable on this site.

Highways -

The Senior Transport Officer has not raised an objection to the application. The proposal to move the access to the site to the north further from the junction with Babbacombe Road would reduce the proximity of vehicles entering and leaving the site with vehicles using the junction with Babbacombe Road. Twenty one parking spaces would be provided on the site which would be 1.5 spaces per apartment. This ratio of parking would be acceptable in this location which is within walking distance to the town centre and adjacent to a bus route on Babbacombe Road. It is noted that local residents have raised concern about additional demand for parking in the area, however there would be insufficient grounds to require the provision of any greater level of off site parking to serve the development.

The Senior Transport Officer has requested a S106 contribution towards the provision of sustainable transport. Considering the previous use of the site as a hotel the level of traffic generated from the proposed development would be lower than the hotel use and therefore a sustainable transport contribution could not be justified in this case.

Environmental Enhancement -

The DRP noted that the setting of the building would be important to its overall success and made a number of suggestions about how the space around the building could be utilised to contribute a strong landscape setting and also to provide usable and attractive amenity space for residents. These suggestions have been incorporated into the landscape concept plan. A landscape condition

will need to be imposed to ensure detailed planting details are submitted. The Arboricultural officer has requested a tree report and the applicant has been asked to provide this.

A protected species assessment has been submitted in support of the application. This concludes that no evidence of bats, barn owls or other bird species was recorded during a site survey by an ecologist.

Impact on the amenity of adjoining occupiers -

Local residents have raised concerns about the loss of privacy as a result of the development. The proposal will be sited further away from the closest property in Glenthorne Close than the existing hotel. It is noted that there are currently a number of first floor windows in the hotel that directly overlook the side boundary of this property. Due to the orientation of the proposed building the windows and balconies on the north elevation will face the front curtilage of this property rather than the private rear garden area. For these reasons it is considered that the proposal would not result in an unacceptable loss of privacy to the adjoining occupier.

There is a further dwelling situated on the south side of the site on Babbacombe Road that is adjacent to the application site. This property has a floor level significantly lower than the application site. It is well screened from the application site by existing boundary planting. The proposed building would be sited approximately 4 metres further away from the boundary than the current building. The balconies on the elevation facing this property have been designed to be at an angle in order to direct views to the south away from this property. It is considered that the proposal would not have a detrimental effect on the amenity of the occupants.

S106/CIL -

The following S106 contributions would be required to offset the impact of the proposed development on local infrastructure;

Waste Management	£ 700.00
Sustainable Transport	£ 1,121.00
Lifelong Learning	£ 390.00
Greenspace and Recreation	£10,640.00
South Devon Link Road	£12,090.00
Loss of employment	£28,860.00
Total	£53,801.00
Administration charge	£ 2690.05
Total with Administration charge	£56,491.05

Conclusions

In conclusion, the proposal would constitute the demolition of a building within the Warberries conservation area that makes little contribution to the overall character of the area. The proposed redevelopment would provide a good quality building of modern distinctive character that would enhance the appearance and character of the area. The proposed use as 14 apartments would be consistent with the predominant use of buildings in the area. The application includes the provision of underground parking which would enable delivery of a good quality landscaping scheme on the site that would make a positive contribution to visual amenity. For these reasons the proposed development would be acceptable in this location.

Condition(s)/Reason(s)

01. No demolition without a contract for redevelopment
02. materials to accord with submitted samples
03. submit details of finished floor level
04. parking and cycle parking provided
05. bin store provided
06. landscaping scheme submitted
07. landscape scheme implementation
08. boundary treatment
09. provision of bat tubes and swift boxes

Relevant Policies

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Agenda Item 14

Spatial Planning (Strategic Planning and Implementation Team) Performance Report

Issue 1 – 2014/15 (01 April to 23 June 2014)

Exec Summary

This report provides information on the performance of the Strategic Planning & Implementation Team (Spatial Planning). This gives members of the Development Management Committee the opportunity to oversee performance against a number of indicators.

The Council's performance against the statutory function of determining planning applications and producing a local plan is vital to investment in the Bay. Investors look at, for example, the degree to which Members follow officer advice, the percentage of approvals on major applications and how quickly those decisions are made.

The Council is performing well against those indicators, which helps support the Council's and Torbay Economic Development Company's economic recovery plans.

Headlines: The following areas of performance are highlighted given their importance in national measures of Local Planning Authority's; these indicate a strong and improving picture for Torbay in the national context:

83% of Major Planning Applications in this period (5 out of 6) were determined in time (either within 13 weeks or within the time agreed with the developer). On the basis of a rolling 2 year performance (the period against which LPAs are measured by the Government and in this case the period 23 June 2012 to 23 June 2014) this takes Torbay's performance on Major Applications up to 72%. This is now well above the current threshold, and the proposed threshold, for special measures and demonstrates our improving performance when measured against this national indicator.

80% of the appeals that were decided in the period 01 April to 23 June were dismissed. The Council continues to maintain a good performance at appeal, a key indicator of the quality of decision making.

Performance against 8 week time period:

Officers have worked hard to respond to the need to improve performance against 8 week dates and this has been steadily improving over the past 6 months. Annual performance for 2014 is currently at 57% for Minor application types and 77% for other application types. Performance so far this period (01 April to 23 June) is at 58% for Minor and 83% for Other application types.

Introduction

The following areas of performance are set out in this report:

- (1) Local and Neighbourhood Plans,
- (2) planning appeal decisions,
- (3) performance on Major planning applications,
- (4) committee decisions and officer recommendations, and;
- (5) forthcoming (pipeline) projects.

(6) proposed thresholds for assessing performance

1. Local and Neighbourhood Plans

Consultation on the Submission Version of the new Local Plan was completed on 7th April 2014. The consultation exercise secured 142 representations and around 1500 comments.

The headlines of those responses are:

- Support from neighbouring Districts and the County Council;
- Support from the business community and TDA;
- About 50% of the objections were re Broadley Drive – a site identified as a potential development land, but one for the Neighbourhood Plan to allocate;
- Most statutory consultees were very supportive, but some minor changes are needed;
- There was very little comment about tourism policy, showing strong support for Local Plan policies;
- Four key organisations / groups raised objections – Natural England; English Heritage; Paignton Neighbourhood Forum; Housebuilders and Registered Providers.

Further work is underway to complete the evidence base, resolve objections where possible, appoint a Programme Officer and complete a range of submission documents. Work is also continuing on 4 masterplans, one purpose of which is to show how the Local Plan can be delivered.

The Council meeting on 17 July will consider a report recommending submission of the Local Plan, before end July 2014, with minor modifications. A July submission would allow an Examination (Hearing session) to take place, over a 3 week period, in late Oct/ early November.

2. Planning Appeal Decisions

Preparations are currently ongoing in relation to 3 Public Inquiries. These are the appeal by Tesco against the decision at Edginswell Business Park, the appeal by Churston Golf Club and the appeal by Taylor Wimpey against the decision in Collaton St Mary. These Inquiries will mean a very busy Autumn period for the Strategic Planning and Implementation Team with the Inquiries running back to back from the end of September through to the middle of November. This is also likely to overlap with the Examination period for the New Local Plan.

In relation to appeal decisions the most prominent decision since the last report was the decision at Ashlade on Great Hill Road. This appeal was dismissed. The decision is an important one in relation to the Council's approach to development in the Countryside Zone and AGLV. This case is useful in supporting the Council's recent decisions to refuse planning permission for a dwelling at Pine Lodge and to refuse the proposed Taylor Wimpey development at Collaton St Mary.

The Inspector states:

'In the circumstances described, I find that the proposed development would lead to the unwarranted intensification of existing sporadic development along Great Hill Road, beyond the settlement limit. This would have an undesirable urbanising effect on the junction, thereby eroding the soft edge of the settlement. This leads me to conclude on the main issue that the proposed development would cause significant harm to the form and setting of Torquay. The proposal is therefore contrary to saved LP Policies LS, L2 and L4.'

Importantly the Inspector also looked at para 55 of the NPPF and concluded that 'the special circumstances listed in paragraph 55 of the National Planning Policy Framework' *do not* 'apply'. Furthermore, the Inspector acknowledges 'the efforts made to minimise the visual impact of the proposed development by adopting a low-lying design incorporating a green roof and landscaping of the site', however, he confirms that 'these considerations are not sufficient to outweigh the harm' identified.

This appeal decision reaffirms the Council's Local Plan policy for development in the Countryside Zone and AGLV and will be a useful reference for future decision making.

In total, since the last appeal report in April there have been 10 appeal decisions made. Of the 10 appeal decisions reported here, 8 were dismissed, an 80% success rate over the last quarter. Torbay continues to perform consistently well at appeal, with its annualised appeal performance at 69% dismissed for the period 23 June 2013 to 23 June 2014 (22 out of 32 determined appeals).

There now follows a brief summary of the appeals. If Members require any greater detail on any specific appeal case, then please contact the relevant case officer.

Appeals Dismissed (8)

Site:- Merton Lodge, Middle Lincombe Road Torquay Case Officer:- Alexis Moran

LPA ref:- P/2013/0087 Ward:- Wellswood

Proposals:- Formation of dwelling with vehicular and pedestrian access

Issues:- Effect on the setting of Merton Lodge (Grade II Listed), impact on the Lincombes Conservation Area, effect on trees

Site:- 8 Sandringham Gardens, Paignton

Case Officer:- Alistair Wagstaff

LPA ref:- P/2013/0296 Ward:- Preston

Proposals:- Erection of dwelling land rear of 8 Sandringham Gardens

Issues:- the effect on the character and appearance of the surrounding area; and the effect on the living conditions of the occupants of neighbouring dwellings

Site:- Green Mantel 253 Torquay Road Paignton

Case Officer:- Alexis Moran

LPA ref:- P/2013/0818

Ward:- Preston

Proposals:- Alterations and extension to first floor residential dwelling

Issues:- Impact on the character and appearance of the area

Site:- Flat 2 6 Courtland Road Paignton

Case Officer:- Robert Pierce

LPA ref:- P/2013/0863 Ward:- Roundham With Hyde

Proposals:- Demolish section of wall and reinstate pillars and gates to provide off road parking

Issues:- The main issue in this case is the effect on the character and appearance of the Conservation Area

Site:- 51 Barn Owl Close Torquay

Case Officer:- Scott Jones

LPA ref:- P/2013/1214 Ward:- Shiphay With The Willows

Proposals:- Rear extension & Internal alterations and additions to create 2 further bedrooms and additional living accommodation

Issues:- (a) the effect of the proposed development on the character and appearance of the area; (b) the impact of the scheme on living conditions in an adjoining dwelling.

Site:- Ashlade Great Hill Road Torquay

Case Officer:- Robert Pierce

LPA ref:- P/2013/0991

Ward:- Watcombe

Proposals:- Proposed dwelling in lower garden

Issues:- This is the effect of the proposed development on the form and setting of Torquay

Site:- Land Adjacent To 1 Cavern Mews And 8 Mount Pleasant Road Brixham

Case Officer:- Helen Addison

LPA ref:- P/2013/0377

Ward:- Berry Head With Furzeham

Proposals:- Construction of 6 terraced houses with access by a car lift service from Mount Pleasant Road with access road parking and revision to approved dwelling adjacent to 8 Mount Pleasant Road and North of Bolton Street, Brixham.

Issues:- These are the effect of the proposed development on (a) the character and appearance of the Brixham Conservation Area wherein the site lies; (b) the free and safe flow of traffic on an adjoining public highway; (c) flooding risks in the area; (d) the provision of community services; (e) nature conservation interests.

Site:- 52/54 Belgrave Road Torquay

Case Officer:- Scott Jones

LPA ref:- P/2013/0876

Ward:- Tormohun

Proposals:- Change of use from hotel to 8 holiday apartments and 2 residential units.

Issues:- Lack of s106 agreement, including holiday restrictions clauses and contributions

Appeals Allowed (2)

Site:- 31 Grosvenor Avenue Torquay

Case Officer:- Scott Jones

LPA ref:- P/2013/1190

Ward:- Shiphay With The Willows

Proposals:- 2 rear dormers in roof

Issues:- the effect of the proposed development on the character and appearance of the host property, the pair of which it forms a part and the area. (b) the effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy

Site:- 29 Grosvenor Avenue Torquay

Case Officer:- Scott Jones

LPA ref:- P/2013/1199

Ward:- Shiphay With The Willows

Proposals:- New dormer to rear elevation

Issues:- the effect of the proposed development on the character and appearance of the host property, the pair of which it forms a part and the area. (b) the effect of the proposed development on the living conditions of neighbouring occupiers with regard to privacy

3. Performance on Major Planning Applications

Determinations within 13 weeks

Councils are expected to determine at least 60% of major planning applications within 13 weeks. Last quarter's performance on Major Planning Applications was 83 % determined in time (5 out of 6 major applications). The overall performance on a rolling 2 year period (23 June 2012 to 23 June 2014) is now up to 72%. This is not only well above the national indicator target, but substantially clear of the threshold for special measures, which is currently set at 30% and set to rise to 40% in the near future.

Approval rate for Major applications

Over the 2 year period (23 June 2012 – 23 June 2014) Torbay has maintained an approval rate on Major Planning Applications of 80%. In addition, over the last quarter (01 April to 23 June 2014) all 6 of the Major Planning Applications determined were approved (100%).

4. Committee Decisions and Officer Recommendations

As has previously been reported decisions made at committee are, in the majority of cases, consistent with the officer's recommendation (approx 95% over a 2 year period).

That consistency and strong working relationship with the Members has continued over the last quarter (01 April to 23 June 2014), where 9 out of 10 decisions have been made in accordance with the recommendation of officers. This demonstrates a strong consistency between the officers and the members of the committee in making planning decisions. This level of consistency in decision making provides applicants with a high level of certainty that the eventual decision will be likely to tally with the advice they have received through the negotiation process.

5. Forthcoming (pipeline) projects

The following is a list of forthcoming Major projects and their current status:

Site Address	Summary proposal	Status
Lansdowne Hotel	14 Flats	July DMC
Pavillions	Hotel, Flats, Car Parking	Sept DMC
Scotts Meadow	155 Dwellings (RM)	July DMC
Torwood Street	Hotel, Offices, Commercial	App Awaited
Sharkham Village	31 Dwellings	App Awaited
Riviera Bay	Holiday Lodges	August DMC
Wall Park	Dwellings, Caravans, Sports etc	August DMC

6. Proposed thresholds for assessing performance

Following consultation earlier this year on planning performance and continued planning reform, the Government has issued a response and guidance on new thresholds for assessing performance. The headlines of this are as follows:

- LPAs should determine at least 40% of major applications (not requiring an EIA) in 13 weeks;
- No more than 20% of decisions on major applications should be overturned on appeal;

- LPAs that have determined two or less major applications during the two year monitoring period will be exempt from special measures

These recommendations have not yet been enacted.

These proposed changes also require this Council to put in place a more formal mechanism (a Planning Performance Agreement) for dealing with major applications that are likely to take more than 13 weeks to determine.

Conclusion

The Strategic Planning & Implementation team has seen recent success in relation to key indicators, including an improvement in determination timescales for all application types. In addition, the Council continues to perform well at appeal and the relationship between officer advice and the decisions of the committee are consistently in line with one another.

However, the proposed changes to the thresholds for assessing performance mean that the Council needs to maintain and, if possible, improve its performance. There is no room for complacency. The loss Pete Roberts, as Team Leader for Development Management will make it harder for the LPA to maintain its performance over the next 6 – 9 months.

Members are always keen to see approved development implemented 'on the ground'. To that extent, Strategic Planning & Implementation will be looking at ways it can support delivery of development following issue of decisions. For example, the team will seek to make quick decisions on pre-commencement conditions and on amended drawings.