



Friday, 1 August 2014

## **DEVELOPMENT MANAGEMENT COMMITTEE**

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

**Monday, 11 August 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 (Chairwoman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Baldrey

Councillor Brooksbank

Councillor Ellery

Councillor Kingscote

Councillor Pentney

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:

**Lisa Antrobus, Town Hall, Castle Circus, Torquay, TQ1 3DR  
01803 207087**

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

[www.torbay.gov.uk](http://www.torbay.gov.uk)

# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 1 - 5)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 14 July 2014.
3. **Declarations of Interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**  
To consider any other items that the Chairman decides are urgent.
5. **P/2014/0311/PA St Margaret Clitherow RC Primary School, Polhearne Way, Brixham** (Pages 6 - 14)  
Construction of a new teaching block.
6. **P/2009/1114/MPA 28 New Street, Paignton** (Pages 15 - 24)  
Proposed alterations and rebuilding of buildings facing onto rear lane behind nos. 28 to 36 to form 10 dwellings.
7. **P/2014/0450/R4 Wildlife Adventure Playground, Off Smallcombe Road, Foxhole, Paignton** (Pages 25 - 29)  
Change of use from school land to community playground (to form extension to the existing facility reference P/2011/0824).

8. **P/2014/0571/VC Victoria Park, Torquay Road, Paignton** (Pages 30 - 35)  
Retention and change of use of the existing youth service building with a childcare facility (Class D1) (Variation of condition 1 of original planning permission P/2012/0183).
9. **P/2014/0224/PA Banjo Area, Princess Gardens, Torquay** (Pages 36 - 39)  
Erection of a temporary wooden construction for catering and deckchair storage.
10. **P/2014/0504/PA Highways Land On Lower Warberry Road, Torquay** (Pages 40 - 43)  
Erection of a 15m column with additional cabinets and ancillary development.
11. **P/2014/0505/PA Highways Land On Grafton Road, Torquay** (Pages 44 - 47)  
Erection of a 15m T range column with dual stack antennae in shroud, additional cabinets 2 dishes and ancillary development.
12. **P/2014/0511/PA Mount Stuart Hospital, St Vincents Road, Torquay** (Pages 48 - 52)  
Single storey theatre 3 extension - installation of portacabin for admin use and associated plant - staff rest.
13. **P/2014/0608/R3 Land At Rainbow Drive/Queens Wood, Shiphay Lane, Torquay** (Pages 53 - 60)  
Construction of new 2.5m wide shared use tarmac cycleway from Shiphay Lane to Crownhill Rise.
14. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
15. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 6 August 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](http://www.torbay.gov.uk) within 48 hours.



## Minutes of the Development Management Committee

14 July 2014

-: Present :-

Councillor McPhail (Chairwoman)

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

---

### 9. Minutes

The Minutes of the meeting of the Development Management Committee held on 12 May 2014 were confirmed as a correct record and signed by the Chairwoman.

### 10. Urgent Items

The Committee considered the items in Minute 11 and 12, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

### 11. Telecommunication Mast - Brixham College

The Team Leader, Major Development advised the Committee that an application for a 4G telecommunication mast at Brixham College had been received. The Committee noted that as the application expired on 10 July 2014, the Chairwoman and Vice-Chairman had been consulted on the proposal and planning consent issued.

### 12. P/2014/0028/MPA - Burley Court Apartments, Wheatridge Lane, Torquay

Further to the meeting of the Development Management Meeting held on 14 April 2014, the Committee was advised that the Section 106 Agreement for the above had not been completed within the required timescales and the reason for this. Due to circumstances Spatial Planning had not issued a refusal notice and sought members approval for an extension for the Agreement to be completed.

Resolved:

Approved.

### 13. P/2014/0181/PA - 13 Greenway Road, Brixham

The Committee considered an application for a single detached two storey dwelling and new access from Orchard Close.

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

Resolved:

Subject to the completion of a Section 106 Agreement being signed/submitted within three months of the date of this Committee or the application be refused for reasons of a lack of such agreement, approved with the conditions set out in submitted report including an amendment to condition 3 with respect to the protection and retention of trees.

**14. P/2014/0442/HA - 302 Dartmouth Road, Paignton**

The Committee considered an application for replacement enclosure for the existing swimming pool and the construction of a gymnasium and associated leisure facilities for domestic use.

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

Resolved:

Approved with the conditions set out in the submitted report.

**15. P/2014/0470/VC - The Arboretum, Blagdon Road/West Lane, Paignton**

The Committee considered an application for 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 nine apartments in the main building (apartments 42-50).

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

Resolved:

Approved to allow:

- (i) residential use of the 9 apartments in the main building on the site. Requiring 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.);
- (ii) revision of 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'.);

- (iii) revision of 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;
- (iv) payment of planning contributions as per previous agreements in relation to holiday development;
- (v) payment of planning contributions in relation to the 9 residential apartments as set out in the submitted report, with a variation of the trigger to pay being amended to 36 months following the occupation of the 7<sup>th</sup> unit. In the event that the leisure facilities building and woodland holiday lodges are provided within that period then the requirement to make the residential planning contribution be waived,
- (vi) the imposition of an additional condition prohibiting occupation of the holiday units until the leisure facilities (being a swimming pool, a hydro pool, a gym a bar and cafe or restaurant) are provided; and
- (vii) the earlier obligation of fractional ownership being removed.

**16. V/2013/0004/V - The Corbyn Apartments, Torbay Road, Torquay**

The Committee considered an application for proposed modifications to the Section 106 Agreement (P/1991/0370).

Resolved:

Approved, subject to the completion of a Section 106 Agreement within three months of the date of this Committee.

**17. 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**

The Committee considered an application for 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.

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

Resolved:

Subject to satisfactory revised plans being received to resolve to the issues listed in submitted report, approval delegated to the Director of Place. In the event that resolution of the concerns set out in the submitted report are not reached within the agreed extension of time, the application be refused for reasons of poor design in relation to the outstanding matters. It was agreed that there was some discretion in this as revised plans had been submitted immediately prior to the meeting which responded to some of the itemised concerns.

**18. P/2014/0363/HA - Marine View, 8 Peak Tor Avenue, Torquay**

The Committee considered an application for an extension to the existing garage.

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

Resolved:

Approved with the condition set out in the submitted report.

**19. P/2014/0501/MPA - Lansdowne Hotel, Old Torwood Road, Torquay**

The Committee considered an application for demolition of existing building, construction of 14 apartments with underground parking, revision to vehicular and pedestrian access.

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

Resolved:

Subject to:

- (i) the completion of a Section 106 Agreement being completed before 27 August 2014 (with loss of employment contribution removed) or the application be refused for reasons of a lack of 106 Section Agreement; and
- (ii) the receipt of satisfactory revised information in respect of drainage;
- (iii) inclusion of additional condition relating to tree protection during construction.

approved with conditions relating to those set out in the submitted report.

**20. Spatial Planning Performance Report**

The submitted report was noted.

**21. Vote of Thanks**

The Committee gave the Team Leader, Major Development their appreciation and thanks for his support and wished him well for his future endeavours.

---

Chairwoman

# Agenda Item 5

## Application Number

P/2014/0311

## Site Address

St Margaret Clitherow RC Primary School  
Polhearne Way  
Brixham  
Devon  
TQ5 0EE

## Case Officer

Carly Perkins

## Ward

St Marys With Summercombe

## Description

Construction of a new teaching block.

## Executive Summary/Key Outcomes

The proposal is for a detached two storey mono-pitched school building to the north west of the existing school building. The proposal will involve partly excavating a grassed bank so that the building will be level with the existing school. The building will house 3 classrooms and a reception area. The proposal will enable the removal of a temporary hut building on completion of the works.

The need for the additional school places and the potential for them not being provided is a material consideration to be assessed against other policy considerations of design and the impact on the setting of the Conservation Area. On balance having noted that the building is partially screened by existing landscaping, the existing school building and surrounding dwellings, that it will facilitate the removal of an existing temporary building and the positive social impacts of the building it is considered that the benefits of the scheme outweigh the negative visual impacts of the building. However there is a poor highway safety record in the locality with 39 casualties in the last 5 years (well above the national average which would suggest there should be approximately 10-11 casualties for a population of this size) and in the absence of mitigation measures (e.g. a Travel Plan) there are serious concerns regarding the impact of the development on highway safety. In light of this it is recommended that the decision be delegated to officers so the outstanding issues regarding highway safety can be resolved.

## Recommendation

Delegate to officers to approve subject an acceptable travel plan being submitted within 2 weeks of the committee date.

Conditions will be confirmed to the Members at the Development Management Committee.

### **Statutory Determination Period**

8 weeks, the determination date was the 7th June 2014 however it has been agreed to extend this in order for the application to be revised in light of officer concerns regarding design and highway safety.

### **Site Details**

The application site is a primary school building positioned towards the north west of the site with playgrounds and playing fields located towards the south east. The main school building is largely flat roofed and single storey with a pitched roof section over the assembly hall and southern part of the building. There are also some elements of the building that protrude above the main roof which are assumed to house plant and other machinery these elements are also flat roofed.

There are 9 parking spaces towards the front of the school site as well as 10 cycle spaces.

### **Detailed Proposals**

The proposal is for a detached two storey mono-pitched school building to the north west of the existing school building. The proposal will involve partly excavating a grassed bank so that the building will be level with the existing school. The building will house 3 classrooms and a reception area providing accommodation for an additional 60 children. The proposal will enable the removal of a temporary hut building on completion of the works.

The proposals will also include 10 additional cycle storage spaces and 30 scooter storage spaces. There will be no increase in the number of car parking spaces within the site.

The Higher Brixham Conservation Area runs along the north east and south east boundary of the site and the proposal will be partially visible from it such that the proposal will have an impact on the setting of the Conservation Area. The application site is bounded by residential properties with the closest being located approximately 15m from the proposal.

### **Summary Of Consultation Responses**

*Conservation Officer:* The existing site is predominantly single storey with a taller school hall towards the centre. The building is highly visible across the valley and the proposal, in its current location, would be highly visible as you enter the school and will impact on the immediate neighbours. The current scheme has little relationship with the school and does not allow for further expansion in the future.

*Transport Officer:* In light of the current transport assessment, Strategic

Transportation would not be supportive of the any expansion of the school given the problems associated with accessing the school for parents, pupils and staff by all transport modes.

Should the applicant wish to proceed with their proposal, in order to facilitate safe, sustainable access, there are measures that will help to mitigate the associated access issues to a level whereby it would then be possible to support it. Mitigation would include:

- Placement of a dedicated, suitably experienced person within the school to:
- Undertake road safety education for the whole school community in class and out of class and
- Support to the Chair of Governors to develop a quality Travel Plan involving a working group formed of representatives of the Senior Leadership Team (teaching side), Teachers, Governors, pupils and parents. An estimate of 190 hours per term for 2 academic years has been made to ensure sufficient practical, classroom, management, and admin work is undertaken to achieve a standard expected in primary schools.
- Provision of scooter parking for a minimum of 18, and new covered cycle parking for a minimum of 6, in line with new policies set out in the New Emerging Local Plan - 'Torbay Local Plan-A landscape for success'
- To address current pedestrian access issues:
  - Introduce a Traffic Regulation Order to manage parking in the area,
  - Install lining, signing and marking improvements on the immediate surrounding highway.

These works are estimated at up to £15,000. This is in accordance with the Local Authority policy to improve sustainable transport opportunities and enabling travel by sustainable modes, particularly for short journeys.

*Education:* Torbay is currently experiencing a growth in primary aged pupils across Torbay. The Local Authority has been expanding primary schools in all 3 towns in order to meet this increase in demand. The growth in Brixham is not as significant as in Torquay and Paignton but there is a need to provide some extra places in the town to accommodate a few particularly large year groups from September 2013.

Following extensive consultation with all schools, it was agreed that St Margaret Clitherow offered the best solution for the following reasons:

- It is in the right location - some of the other Brixham schools are located in more peripheral parts of the town so there would be greater distances for parents and children to travel.
- As St Margarets Clitherow is a Voluntary Aided School there was an opportunity to access some other capital funding for the project that would not be available for a community school. This provided match funding for the

- Council resources that were allocated to the scheme and offered excellent value for money.
- The school had a PAN (Planned Admission Number) of 20. This was a difficult number for class organisation and for planning and funding purposes. From September 2013, the school increased their PAN to 30 which is a much better number in terms of curriculum and financial planning and will have educational benefits for the school and its pupils.

The school have already increased their PAN for September 2013. Their existing class structure meant that they could manage for one academic year without the need for additional accommodation. If this project does not proceed then the school will be unable to accommodate pupils who have already been offered a place for September 2014. The Local Authority would not be able to fulfil its statutory duty to provide sufficient primary school places in Brixham resulting in the Local Authority having to fund expensive transport costs to take these children to other schools in the Bay.

*Building Control:* No known contaminated land issues. Consider geotechnical issues, fire requirements, radon gas/methane areas, drainage/solid waste storage and disabled provisions. Building Control should be contacted for pre-application advice.

### **Summary Of Representations**

3 representations of objection and 1 petition have been received. Issues raised:

- Impact on privacy
- Proposal not in keeping with local area
- Proposal sets a precedent for this type of development
- Impact on parking and highway safety
- Impact on noise
- Proposal should be single storey

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

### **Relevant Planning History**

- |             |  |
|-------------|--|
| P/1993/0367 | Alterations and extensions, erection of temporary classroom, to change school from infant to junior status with additional parking as revised by letters dated 26.4 and 4.5.1993 and plans received 30.3 and 28.4.1993 APPROVED 13.05.1993 |
| P/1995/0383 | Variation of condition 2 attached to permission 93/0367/PA to allow permanent siting of classroom unit APPROVED 12.05.1995   |

P/1995/0922	Formation of an additional classroom APPROVED 03.10.1995
P/1998/0863	Variation of condition 1 attached to permission 95/0383/PA to allow permanent siting of classroom unit APPPROVED 06.06.1998
P/1999/0958	Extension to provide classroom and associated facilities APPROVED 28.10.1999
P/2007/1566	Alterations and extension/path APPROVED 31.10.2007

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

The relevant considerations are the impact of the proposed development on residential amenity, the character and appearance of the area and highway safety and the availability and need for primary school spaces in Brixham.

The principle of school expansion:

As noted in the consultation response from Children's Services, there is a need to provide extra primary school places in Brixham in order to accommodate a few large year groups from September 2013. Following consultation with all schools St Margaret Clitherow was concluded to be the best solution. Paragraph 72 of the NPPF states that great importance is placed on ensuring that there is a sufficient choice of school places available to meet the needs of existing and new communities and that Local Authorities should take a proactive, positive and collaborative approach to meeting this requirement. Similarly Policy CF1 and CF10 of the Torbay Local Plan supports the provision of new and improved community facilities such as schools providing they would be readily accessible to the local community including pedestrians and enjoy good access to public transport, would not impact adversely on adjacent properties and surrounding neighbourhood, the schools are of sufficient size to accommodate new school facilities, the proposals safeguard existing playing fields and would not cause serious congestion or a road safety hazard.

In line with both local and national policy, the need for and the principle of providing additional school spaces is considered acceptable however there are various issues that need to be resolved before additional accommodation at this school can be approved. These issues are set out in detail below:

#### *Highways Safety and Parking Provision:*

Representations have been received regarding the impact of the development on highway safety and off-site parking and are noted. The transport assessment noted that currently the most popular mode of transport to school was via the private car either individually or by car share producing 72 pupil related vehicle trips in each peak

hour (morning and afternoon). In addition it was note that 83% (19 vehicle trips) of staff travel to the school by car with some using the school car park and others parking on Polhearne Lane or Longcroft Avenue, the staff however would generally arrive and leave school outside of the morning and afternoon peak hours. The transport assessment gave consideration to the safety of non-motorised users which included consideration of personal injury data for the highway network in the vicinity of the school covering a period of 5 years from 3rd April 2009 until 21st January 2014. There were 34 personal injury incidents which involved 39 casualties during this time of which 18 were pedestrians, 2 were cyclists and 7 involved children under the age of 18. Of these incidents 6 occurred within school peak periods and involved 6 pedestrians, of which 5 were school aged children. When comparing these amounts with national data, it was concluded that the incident rate in this area is very concerning being well above the national average with the national data indicating that casualties should be around 10-11 over 5 years given the size of the population whereas the amount here is beyond this at 39 casualties.

It is noted that 55% of the additional 60 pupils who will attend this school as a result of the proposal are likely to travel by car which is equivalent to an additional 33 pupils travelling by car and an additional 4 teacher trips. The assessment noted no current issues with staff parking but recommended that all staff cars should be accommodated within the grounds of the school in the interests of good neighbourliness. The assessment notes that it is important that the expansion of the school does not generate any more off-site parking and it is vital that all additional staff are accommodated on site. It is noted that road network and nearby junctions could continue to operate effectively when considering the additional traffic demand as a result of the proposal. The assessment also noted that parents were not observed to be contravening parking restrictions during the assessment period however it is noted that a public representation has stated otherwise and provided photographic evidence.

The assessment makes several recommendations in terms of both hard and soft measures in order to improve pedestrian and highway safety. These include road safety lessons, the provision of formal crossing points including a school crossing guard, the potential for a 20 mph zone and the provision of additional school signage. In the concluding paragraph the assessment made it clear that the expansion is likely to raise an issue of safety that requires attention and whilst it is only a rough estimation regarding accident analysis in the area it is nonetheless clear that the information gives sufficient cause for concern that should be given further consideration. Paragraph 32 of the NPPF notes that developments that generate significant amounts of movement should be supported by a transport assessment which take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network to limit the significant impacts of the development. In addition it states that developments should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In this instance there are serious safety concerns whether or not there is a safe access to the site for

pedestrians in terms of both the existing situation and the proposed situation which increases the amount of vehicles and pedestrians accessing the site such that it is considered that for reasons of highway safety the proposal could be refused in its current form.

In response to the concerns raised by the assessment and by the strategic transport officer, the school has undertaken a school transport survey with the parents to obtain information regarding how they travel to school and if not, why they don't use public transport, cycle, scoot or walk. This survey confirmed some of the points raised in the assessment regarding the availability of foot paths and safe access to the school. Further consultation with the strategic transport officer is still ongoing however the officer has verbally stated that the survey is not sufficient on its own to alleviate the concern regarding highway safety and that this must be reflected into actions within a travel plan before his objection can be removed. The Members will be updated, at the Development Management Committee meeting, of any progress regarding the travel plan.

#### *Character and Appearance:*

Representations have been received regarding the impact of the development on the character and appearance of the locality noting that the proposal is not in keeping with the area. The existing building is largely flat roofed and single storey expanding over a large footprint. There are some taller pitched roof elements towards the centre and southern end of the building but it predominantly reads as a single storey building. The building is set at a lower level than dwellings adjacent to the north and east such that views from these properties are predominantly above and beyond the school building itself. The proposal is for a two storey detached building positioned approximately 2m north of the existing school building. There is an existing grassed bank to the north of the building which will be partially excavated to provide a building at the same level with the existing school and lessen the impact on the surrounding properties. The proposed building is accommodated within the existing school site a minimum of approximately 4.5m from the boundaries of the site, the location has been chosen in order to prevent the loss of any outside playground space. The site is outside of the Conservation Area but will be partially visible from it such that the proposal will have an impact on its setting such that any proposal should preserve or enhance the character and appearance of the Conservation Area.

The proposed building features a mono-pitched roof sloping away from the neighbouring properties to the north and takes on a more modern design than the existing building. Generally speaking extensions to existing buildings should be subservient to the host building allowing for a clear distinction between the existing and the extended. The proposed building has little relationship with the existing building seemingly ignoring the design, materials, scale or form of the existing building. Whilst the proposed building need not be a pastiche of the existing it should reflect in some way the existing character or appearance so that it does not feature as an anomaly within the site. To look at a design completely unrelated to the existing, it

is considered that the building should, ideally, be an innovative piece of architecture to be a focal point for the school raising design standards. Several revisions of the proposed design have been submitted for consideration but these revisions have only made amendments to the elevational treatments of the building and retained the original form and scale which has the biggest impact on the overall design. During officer negotiations, suggestions have been made regarding what would be an acceptable form of development such as a single storey building or a second storey on the existing school building, or a form of cantilever roof which is connected to the main school building and it would be preferable if these options were to be considered further.

The need for additional primary school spaces and the expansion of the school is noted and the principle is accepted. However the design of the proposal is not considered the most appropriate and the applicant has been advised to explore alternative options in order to improve the buildings relationship with the existing building and wider site. The need for the additional school places and the potential for them not being provided is a material consideration to be assessed against other policy considerations of design and the impact on the setting of the Conservation Area. On balance and having noted that the building is partially screened by existing landscaping and surrounding buildings, that it will facilitate the removal of an existing temporary building and that it will provide 60 additional child school spaces in line with national and local planning policy objectives it is considered that the social benefits of the scheme outweigh the negative visual impacts of the building.

*Residential Amenity:*

Representations have been received regarding the impact of the development on the residential amenities on nearby dwellings. The proposal will be located at a lower level than properties to the north and separated by an existing hedgerow and footpath such that the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant for the occupiers of these properties. In addition there are no windows located in the northern elevation such that the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of privacy. The windows in the east elevation have been amended to look away from the gardens directly east such that they are not considered to result in any serious detriment to residential amenity by reason of loss of privacy. Whilst the outlook from this property will change as a result of the proposal it is not considered that there will be a serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant due to the separating distances between the proposal and the boundary of the neighbouring site. Representations regarding noise have been noted but having considered the existing use of the site, the hours of occupations and the number of pupils already occupying the building the proposal is not considered to result in any serious detriment to residential amenity by reason of noise.

Comments regarding the setting of precedents have been noted however every

proposal is considered on its own merits and site circumstances and therefore the setting of precedent would not constitute a reason to refuse the application.

### **S106/CIL -**

Following confirmation of the travel plans acceptability (to be submitted at the request of the strategic transport officer) a financial contribution is likely to be requested. A request for a traffic regulation order would require a financial contribution of approximately £15,000. Further details regarding this will be provided to the Members during the Development Management Committee meeting.

### **Conclusions**

The need for the additional school places and the potential for them not being provided is a material consideration to be assessed against other policy considerations of design and the impact on the setting of the Conservation Area. On balance having noted that the building is partially screened by existing landscaping, the existing school building and surrounding dwellings, that it will facilitate the removal of an existing temporary building and the positive social impacts of the building it is considered that the benefits of the scheme outweigh the negative visual impacts of the building. However there are serious concerns regarding the impact of the development on highway safety. In light of this it is recommended that the decision be delegated to officers so the outstanding issues regarding highway safety can be resolved.

### **Relevant Policies**

CF1 Provision of new and improved community  
CF10 New schools and improved school facilities  
BES Built environment strategy  
BE1 Design of new development  
BE5 Policy in conservation areas  
TS Land use transportation strategy  
NPPF National Planning Policy Framework

# Agenda Item 6

**Application Number**

P/2009/1114

**Site Address**

28 New Street  
Paignton  
Devon  
TQ3 3HN

**Case Officer**

Matt Diamond

**Ward**

Roundham With Hyde

**Description**

Proposed alterations and rebuilding of buildings facing onto rear lane behind nos. 28 to 36 to form 10 dwellings

**Update Report**

This application was approved at Development Management Committee on 21.12.2009, subject to conditions and the completion of a section 106 agreement to secure the necessary contributions to mitigate the impact of the development on infrastructure in accordance with Policy CF6 of the Adopted Torbay Local Plan 1995-2011 ('the Local Plan') and the Planning Contributions and Affordable Housing: Priorities and Delivery Adopted Supplementary Planning Document ('the SPD'). To date the section 106 agreement has not been signed, so officers now seek refusal of the application given the length of time that has passed. The original Planning Officer Report is below.

Officers contacted the applicant's agent on 23 April 2014 seeking withdrawal of the application or alternatively whether the applicant still wished to proceed in which case the application would be reviewed in light of up-to-date policies and guidance and taken back to committee. The agent could not get in contact with the applicant, so their solicitor was contacted on 9 May 2014 instead who said that they were still in contact with the applicant and they did still wish to proceed.

Consequently the design of the proposals has been reviewed, given changing circumstances (e.g. NPPF requirements). It is considered that further work is needed to improve the design and appearance of the proposal. The solicitor and agent were contacted again on 19 May 2014 requesting that they attend a meeting to discuss carrying out revisions to the elevations. However, despite a series of chasing e-mails from the Council, no further comment has been received from the applicant's solicitor.

Email correspondence from the Council at the end of May also set out the contributions now due in line with the SPD Update 3 (April 2011) and the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012, and requested confirmation that the applicant

would pay the Council's legal costs for drafting the section 106 agreement. The contributions due are set out below:

Waste Management	£ 500.00
Sustainable Transport	£12,281.25
Stronger Communities	£ 161.25
Lifelong Learning	£ 881.25
Greenspace & Recreation	£ 5,291.25
South Devon Link Road	£ 3,525.00

Total £22,640.00

Total + 5% Admin Charge £23,772.00

In addition, the Council has advised the applicant's solicitor that the conservation area consent to part demolish the existing buildings on site approved on 11 January 2010 has expired. Therefore, approval was sought to amend the description of the planning application to include demolition, as the planning procedures for demolishing buildings in conservation areas has recently been changed by the Government whereby planning permission must now be obtained and conservation area consent no longer exists. The email once again requested confirmation of how the applicant wished to proceed and if they did not wish to continue whether they could withdraw the application. The email also stated that if no response was received officers would seek refusal of the application at the August Development Management Committee. As stated above, no response has been received.

In addition to refusing the application for no section 106 agreement, it is considered appropriate to add a reason for refusal relating to design given the change in material circumstances since the application was approved at committee previously. The NPPF has been published which is a material consideration when making planning decisions. This includes more detailed design advice than previous national planning policy statements/guidance. Of particular concern is the fact that the elevations do not fit in with the character of development immediately west of the site, which is similar in nature. For example, the windows go all the way to the ground, which makes the dwellings appear more commercial in nature instead of residential.

#### *Statutory Determination Period*

The application is a major development and the applicant has not agreed to extend the time period for decision despite requests to do so. Therefore, should Members agree with officers that the most appropriate course of action in the circumstances is to refuse the application, then it will be over time. However, as performance levels are currently very good and well above the threshold for being placed in special measures, a decision on the application is unlikely to

drastically affect the Council's performance on major planning applications measured over a 2 year period.

#### *S106 Contributions Justifications*

The contribution towards waste management is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6) and will pay the cost of providing waste and recycling bins to the proposed dwellings. It also complies with Local Plan Policy W7.

The contribution towards sustainable transport is justified in paragraphs 4.12-4.24 of LDD6 and will be used towards the provision and enhancement of sustainable transport modes in the vicinity of the site, including cycle links. The NPPF and Local Plan Policy T2 promote sustainable transport modes. The proposed dwellings would generate additional trips and should therefore contribute toward sustainable transport in the area.

The contribution towards stronger communities is justified in paragraphs 4.31-4.35 of LDD6 and will be used towards the provision of a street warden in the area.

The contribution towards lifelong learning is justified in paragraphs 4.47-4.51 of LDD6 and will be used towards the cost of improving provision at Paignton Library, including upgrading IT equipment. The proposed dwellings would place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The contribution towards greenspace and recreation is justified in paragraphs 4.52-4.58 of LDD6 and will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings would place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

The contribution towards the SDLR is justified in Appendix 1 of the 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012 and is based on an assessment of the impact that the development would have on the road.

#### **Recommendation**

Refuse for the following reasons:

No Section 106 Legal Agreement has been entered into to secure the necessary community infrastructure contributions to mitigate the impact of the development on local infrastructure in accordance with Policies CF6 and CF7 of the Adopted

Torbay Local Plan 1995-2011, and the adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011.

The design of the elevations is inappropriate in terms of fitting into the character of the surroundings. In particular the fenestration makes the units appear commercial in nature instead of residential. This would have a detrimental impact on the local townscape and would harm the character and appearance of the conservation area contrary to Local Plan Policies BES, BE1 and BE5, and paragraphs 58 and 64 of the NPPF.

---

*Original Planning Officer Report for Development Management Committee on  
21.12.2009*

#### **Site Details**

The site comprises the buildings to the rear of 28 - 36 New Street, forming the corner of the lanes which run around the back of New Street. The site is within the Old Paignton conservation area. The site is adjacent to Winner Street which is allocated as Secondary Shopping Frontage. To the south of the site is a strong boundary wall which forms the rear boundary of villas fronting Totnes Road. To the north are the rear gardens of the terraced properties fronting New Street and to the west are the buildings to the rear of Winner Street, some of which have been converted into dwellings.

The buildings to the rear of 32 - 36 New Street are identified in the conservation area appraisal as being key buildings dating from 1870 - 1915.

#### **Relevant Planning History**

P/1980/2317 R/O 30 New Street.	Use for gear box repairs. Approved 26/9/80.
P/1984/3395 R/O 30 New Street.	Use of ground floor for car repairs etc Refused 18/2/85.
P/1989/1072 R/O 24-28 New Street.	Erection of 2 storey building to provide 3 garages, store and games room. Refused 17/1/89.
P/1989/1818 R/O 24-28 New Street.	Erection of two storey building to provide 3 garages, store and games room. Refused 8/11/89.
P/2001/0012 R/O 28 New Street.	Erection of storage building with flat above. Refused 20/2/01.

P/2001/1046 R/O 28 New Street.	Erection of ground and first floor storage building. Refused 20/09/01.
P/2002/2029 R/O 30, 32, 36 New Street.	Demolition works in connection with redevelopment to four dwellings. Approved 28/3/03.
P/2002/2030 R/O 30, 32, 34, 36 New Street.	Conversion, part demolition and rebuild of existing garages, workshops and stores to form 4 residential units. Approved 23/6/04.
P/2006/1348 R/O 28 New Street.	Demolish structure and erection of 2 no 2 bedroom flats and 1 no 1 bedroom flat. Refused 21/8/06.
P/2007/0708 R/O 28 New Street.	Erection of block of 3 no 1 bedroom flats. Refused 25/7/07.
P/2007/0905 R/O 28 New Street.	Demolish Structure. Approved 27/7/07. Pre-application enquiry
ZP/2008/0855 Redevelopment.	Following negotiations scheme was agreed in principle 24/11/08.

### **Relevant Policies**

- H2 Promotes sustainable forms of new development
- H9 Requires a high standard of design, taking into account characteristics of existing environment
- H10 Supports development at maximum densities
- BES Requires new development to conserve or enhance the built environment
- BE1 Requires design of new development to take account of the wider context
- BE5 Development will only be permitted where it will preserve or enhance the character or appearance of the conservation area
- T1 Seeks to locate development in accessible locations
- T25 Sets out parking standards for different types of development
- T26 Seeks to provide safe and convenient access from new development
- CF6 Seeks to achieve appropriate contributions where additional social, physical or environmental infrastructure is needed.

### **Proposals**

The application proposes the demolition of some of the buildings on the site with additional new build and conversion works to result in 10 units.

To the rear of 28 New Street is a single storey boundary wall with a pedestrian door and a garage door. Adjacent to this is a two storey flat roof building with a sloping glazed section at the rear. This has double doors to a garage at ground floor level with storage upstairs. It is proposed to demolish all of the structures on these two sites and replace them with two new buildings. These would both be two storey buildings with gabled roofs with a pitch running at right angles to the

lane. The building to the rear of 28 New Street would contain 2 x 1 bedroom houses, the rear being accessed via a pedestrian access and shared yard area between and to the rear of the two buildings, this yard would also provide bin, bike and buggy storage areas. The replacement building to the rear of 30 New Street would also be a 1 bedroom house. These buildings would have natural slate roofs, cedar cladding to the upper storey and red brick to the ground floor. It is proposed to construct a 1.5m high wall between the new yard and the gardens of 28 and 30 New Street. Fronting onto the lane would be railings at ground floor level and the ground floor accommodation would be slightly recessed.

To the rear of 32 New Street is a two storey building with a gable wall facing the rear lane. It is proposed to retain this building and convert it into 2 x 1 bedroom flats. Changes to the elevations comprise an enlarged window on the front elevation at first floor level, increased glazing on the ground floor, the extension to the ground floor at the rear to be removed, existing fenestration to be removed from the rear and replaced with 4 high level windows to kitchens and bathrooms.

To the rear of 34 and 36 New Street is a 1.5 storey sand stone building with a slate roof. It is proposed to retain this building and convert it into 2 x 1 bed flats. There is an existing opening which provides access to the rear of the building which would be blocked up and a front door formed. The existing openings on the gable end would be glazed.

Onto the lane which runs along the western boundary of the site, adjacent to the sandstone building there is a single storey garage and store and a two storey pitched roof storage building. It is proposed to demolish the single storey element and replace it with a two storey building containing 2 x 1 bed flats. This would be fully glazed on the ground floor, timber clad on the first floor and would have a natural slate roof. This building would be slightly recessed from the back edge of the lane to accommodate a small balcony at first floor level. There would be 4 high level windows on the rear elevation. The existing two storey element would be retained although it would be raised in height by approx 0.8m. The existing openings in the ground floor of the front elevation would be glazed with two new windows at first floor. This would contain a 1 bedroom unit.

### **Consultations**

*South West Water* - No objections although the applicants will need to agree the means of surface water drainage.

*Environment Agency* - Standard Advice - Surface water management good practice should be applied.

*Senior Transport Planner* - Require a sustainable transport contribution of £15,168 and one secure, lit and covered cycle storage space per dwelling.

*Highways* - Objects due to lack of parking.

*Conservation Officer* - Comments awaited.

### **Representations**

Letters of objection have been received which relates to the following issues:

- Ground floor glazing on to the lanes not appropriate
- Frontage to unit 4 should be set back
- Need details of service cupboards - could be highly detrimental to the appearance of the buildings.
- Restoration of the Breccia stone building is positive but need to ensure it is repaired and protected during construction
- Contributions should be given to be put towards increased signage and patrols of the highway
- Overdevelopment
- Not in keeping
- Precedent
- Lack of parking
- Cramped living conditions
- Access problems.

One letter of support has been received which relates to the following issues:

- Buildings are in a poor condition
- Plans are well thought out and in keeping with the conservation area.

These representations have been sent electronically for Members consideration.

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

The main issues in determining this application are considered to be (1) whether the principle of the proposal is acceptable, (2) whether the proposed demolition is acceptable, (3) whether the impact upon neighbouring properties is acceptable, (4) whether the visual impact is acceptable, (5) whether the parking and access arrangements are acceptable and (6) drainage considerations.

#### *Principle*

The site is within the built up area of Paignton in close proximity to the town centre. It is in a very sustainable location and is surrounded by other residential development. The current uses of the buildings have the potential to conflict with the residential character of the area, whereas a residential use would conform with the overriding character of the area. Therefore the proposal represents an efficient use of a brown field site and is therefore the principle is supported.

#### *Demolition*

A separate application for conservation area consent has been submitted under application P/2009/1115. The comments of the conservation officer area awaited, however the buildings which are to be demolished are those which make the least contribution to the conservation area. This matter will be updated.

### *Impact on Neighbours*

To the south the proposed dwellings would face the boundary wall and the properties beyond are approximately 20m away. To the east the main issue is the side wall of the new section of building upon the garden of 26 New Street. The building has been designed with no openings on this side elevation and the building itself would be over 15m away at an oblique angle. The proposal involves a small number of high level windows which face the rear of the properties of New Street. It is considered that this will prevent any undue overlooking. The physical presence of the buildings themselves will have little impact over and above those which exist on the site at present. Some elements are higher than those which exist however this is not to the detriment of the residential amenities of residents of New Road. The properties which are on the western part of the site have a relatively close relationship with the converted buildings at the rear of Winner Street. Windows would be within 5m of one another. However the character of this part of the conservation area is that of narrow lanes and as such it is not an unexpected relationship in a historical area. There are windows in this location at present (albeit not in residential use) and habitable windows were approved in this location under the approval on 2004.

### *Visual Impact*

The comments on the detailed design are awaited from the conservation officer, however in general the design put forward is considered to be successful. Reference points have been picked up from other parts of the conservation area and much of the original fabric is maintained in this scheme. The scheme is an improvement upon previous submissions for the site. The new build elements are higher than what exists, however they are not excessively tall in their context and do not appear overly prominent. The scheme provides a semi-private recessed area to the frontage of some of the properties but not all. However the character of the lane is that of buildings hard up against the lane and as such it is not considered desirable to ask the architect to include more set backs. The details will be important in achieving a successful scheme and as such it is suggested that a number of conditions are added requiring details of windows, doors, rainwater goods, meter boxes and cabinets, railings and hard surfaced areas. Therefore subject to the comments of the conservation officer and the conditions suggested the visual impact of the proposal is considered to be acceptable.

### *Parking and Access*

The comments of the highways officer are awaited. There were objections at a pre-application stage and indeed previous applications on the site have been refused for lack of parking. However there is no reasonable scope to provide parking on the site in a visually acceptable, and safe manner. It is considered far preferable to achieve a positive enhancement of the conservation area than to achieve parking on this site. The thrust of Government Policy is to avoid providing parking to full standard especially in highly sustainable locations such as this. Furthermore the proposal is for small units as opposed to family sized units where car parking is more likely to be required. As such it is considered that

the absence of parking is not contrary to policy. There will need to be a section 106 legal agreement associated with this application and this will include a contribution towards sustainable transportation in the area. Cycle parking spaces are also shown on the plans.

#### *Drainage*

South West Water have not objected to the proposal subject to details of surface water drainage which can be required by condition. It will not be possible to use a soakaway given the lack of land in the applicant's control around the buildings. As such it is likely that such measures will revolve around the type of hard surfacing materials proposed.

**Sustainability** - The proposal does not explicitly refer to the use of sustainable technologies. However it is in a highly sustainable location and involves the re-use of a number of buildings, making efficient use of this brown field site.

**Crime and Disorder** - No issues.

**Disability Issues** - Building Regulations only.

#### **Conclusions**

The proposal represents the opportunity to provide a development of small units in an accessible location which represents a positive enhancement of the conservation area. It complies with the relevant local and national planning policy framework and as such is recommended for approval subject to the following:

- No objections being received from the conservation officer
- Any additional conditions which may be required
- The signing of a Section 106 Agreement.

A Committee site visit is recommended.

#### **Recommendations:**

Committee site visit; Conditional Approval.

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

01. No section 106 legal agreement has been prepared to secure the necessary community infrastructure contributions to mitigate the impact of the development on local infrastructure in accordance with Policies CF6 and CF7 of the Adopted Torbay Local Plan 1995-2011, and the adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the

Adopted Torbay Local Plan 1995-2011.

02. The design of the elevations is inappropriate in terms of fitting into the character of the surroundings. In particular the fenestration makes the units appear commercial in nature instead of residential. This would have a detrimental impact on the local townscape and would harm the character and appearance of the conservation area contrary to Local Plan Policies BES, BE1 and BE5, and paragraphs 58 and 64 of the NPPF.

### **Relevant Policies**

HS	Housing Strategy
H2	New housing on unidentified sites
H9	Layout, and design and community aspects
H10	Housing densities
CF2	Crime prevention
CF6	Community infrastructure contributions
W7	Development and waste recycling facilities
EP6	Derelict and under-used land
BES	Built environment strategy
BE1	Design of new development
BE5	Policy in conservation areas
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development

# Agenda Item 7

## **Application Number**

P/2014/0450

## **Site Address**

Wildlife Adventure Playground  
Off Smallcombe Road  
Foxhole  
Paignton  
Devon  
TQ3 3XA

## **Case Officer**

Mr Alexis Moran

## **Ward**

Blatchcombe

## **Description**

Change of use from school land to community playground (to form extension to the existing facility reference P/2011/0824)

## **Executive Summary / Key Outcomes**

The application proposes to change the use of an area of open space forming part of Kings Ash Primary School into a community playground. The playground would be an extension of the community adventure play area approved in 2011 under application no. P/2011/0824. The playground would include a zip wire, log cabin, compost toilet and bark path, and would operate under supervision.

It is considered that the proposal would provide a positive community facility and would relate well to the surroundings. Therefore, the application should be approved, subject to no objection from Highways and conditions to control the management of the facility and to secure suitable landscaping.

## **Recommendation**

Conditional approval; subject to no objection from Local Highway Authority; conditions as drafted in this report.

## **Site Details**

The site is a sloping parcel of open land that currently forms part of the wider curtilage of Kings Ash Primary School. The site sits to the rear of the ambulance station and clinic on Smallcombe Road, and is adjacent to the previously approved adventure play area.

## **Detailed Proposals**

The application is in two parts, as it seeks the change of use of the land from school land to community play area, together with approval for the siting of a zip wire, log cabin, compost toilet and a bark path which is to be accessed via a new gate.

## **Summary Of Consultation Responses**

*Sport England* - No objection

*Arboricultural Officer* - No objection

*Environmental Safety* - No objection

*Police Liaison Officer* - Opportunities for reducing criminal activity, disorder, anti social behaviour (ASB) and community conflict or for the area to be misused or abused when not in use should be undertaken.

*Highways/Strategic Transportation:* Comments awaited.

## **Summary Of Representations**

A total of nine representations have been received at the time of the writing of this report, seven in support of the proposal and two objecting.

The key points raised in the letters of objection refer to the management of the site and previous issues with local residents rather than any specific planning related issues.

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

## **Relevant Planning History**

P/2011/0824 Land At Kings Ash Primary School; Change of use of school land to Community play area; construction of a tree house and play area including a gravelled area, fire pit and a seated area using reclaimed materials from the local community. Approved 05.09.2011

## **Key Issues / Material Considerations**

The key issues are:

1. The Principle of the Development
2. Visual Impact
3. Impact on Residential Amenity
4. Access and Impact on Highways
5. Landscape Protection and Nature Conservation

### *1. The Principle of the Development*

The principle of the development is acceptable and accords with Local Plan Policy R2. This policy supports proposals for outdoor recreation developments provided criteria relating to residential amenity, access/highways and landscape protection/nature conservation are met. The proposals are considered to be acceptable with regard to these criteria (subject to comments from Highways); therefore the development is acceptable in principle.

### *2. Visual Impact*

The use sits comfortably with those of the surrounding area, whereby the school and community playing fields and buildings provide a backdrop of a similar use and character. There is therefore a degree of homogeneity locally and the use should therefore have little impact on the character of the area.

The proposed cabin is to be 2.4 metres in height and the compost toilet is to be 3 metres high and set behind the clinic and ambulance station. The buildings have been sited in this location to minimise their visual impact in the streetscene.

Bearing these points in mind it is considered that the scale and form of the proposed structures sit comfortably within the area and are considered to be visually acceptable.

### *3. Impact on Residential Amenity*

The proposal is situated close to buildings and space (e.g. multi use games area) that also support community based activities. As such there would be no unreasonable amenity issues on the users of the adjacent buildings.

The residential properties to the east of the site (Brookman Court) are at a lower level with a large retaining wall between them and the site. Due to the low heights of the development it is not considered that the structures would have an over dominant impact on the occupiers of these properties. However, it is considered that low level landscaping should be provided between the proposed structures and boundary with Brookman Court in order to provide screening and act as a buffer.

The properties to the west of the site on Smallcombe Road are obscured behind an established tree border and are sited some 35 metres from the zip wire and as such the development is considered to have an acceptable impact on the residential amenity of their occupants.

Consideration has been given by the applicants to limit the potential for harm to neighbouring properties, for example by locating the most-raised and substantial structures away from this area and closer to the community centre to the south of the site. Considering the layout of the proposed development, the distances to adjacent plots and properties, together with the general relationship, neighbour amenity would not be materially affected by the scheme.

#### *4. Access and Impact on Highways*

Pedestrian access would be provided via a new gate to the west linking to the existing tarmac path. Comments are awaited from Highways and will be reported at Committee.

#### *5. Landscape Protection and Nature Conservation*

There are no landscape or nature conservation constraints affecting the site. Therefore, the proposals would not have a significant impact on these interests.

### **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 play area shall at all times be supervised by someone over the age of 18 whilst open to the public, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the area and to ensure that this part of the site is supervised to the same extent as the rest of the site as approved in accordance P/2011/0824 and in accordance with Policy R2 of the Saved Adopted Torbay Local Plan 1995-2011.

02. Prior to the commencement of development details of low level boundary landscaping, to screen the development from the properties on Brookman Court, shall be planted.

Reason: In the interests of the amenities of the area and in accordance with saved Policies BES, BE1, BE2 & R2 of the adopted Torbay Local Plan 1995-2011.

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

Reason: In the interests of the amenities of the area and in accordance with saved Policies BES, BE1, BE2 and R2 of the Adopted Torbay Local Plan 1995-2011.

04. The site shall not be occupied outside the following hours:-16:00 - 18:00  
Mondays - Fridays 10:00 - 14:00 Saturdays

Reason: In the interests of the amenities of the area and in accordance with the requirements of saved Policy R2 of the Adopted Torbay Local Plan 1995-2011.

**Informative(s)**

01. Any additional structures, play equipment or alterations in sizes and locations of structures on the approved plans will require the submission of a planning application(s).

**Relevant Policies**

BES Built environment strategy  
BE1 Design of new development  
R2 Outdoor recreation developments

**Application Number**

P/2014/0571

**Site Address**

Victoria Park  
Torquay Road  
Paignton  
Devon

**Case Officer**

Carly Perkins

**Ward**

Roundham With Hyde

**Description**

Retention and change of use of the existing youth service building with a childcare facility (Class D1) (Variation of condition 1 of original planning permission P/2012/0183)

**Executive Summary/Key Outcomes**

The application site is a building within Victoria Park close to the tennis courts. The existing building on site replaced a former changing room and was approved for use on a temporary basis as a youth service building. In 2012 a change of use of the building to a children's centre was approved but the temporary consent remained allowing the retention of the building until August 2014. This application is for the variation of condition 1 of application reference P/2012/0183 to allow the permanent retention of the building for use as a children centre or an extension to the existing temporary consent.

The principle of the use is considered acceptable making a positive contribution to the Paignton community and being located in a sustainable location easily accessible to those who use the site. However there is a clear policy conflict when considering the impact of the development on the character and appearance of the locality as the building is of a poor design and located in an area characterised by its openness. The need for the facility and the loss of it is a material consideration to be assessed against other policy considerations of design and the impact on the urban landscape protection area. On balance having noted that the building is partially screened by existing landscaping, that the building is sited in an area of the park already subject to other forms of development (i.e. tennis courts), the willingness on behalf of the applicant to implement a landscaping scheme and the positive social impacts of the use in this location, it is considered that the benefits of the scheme subject to the implementation of a landscaping scheme outweigh the negative impacts of the building.

## **Recommendation**

Conditional approval; conditions as drafted in this report.

## **Statutory Determination Period**

8 weeks, the determination date is the 12th August 2014.

## **Site Details**

The application site is a building within Victoria Park close to the tennis courts. The existing building on site replaced a former changing room and was approved for use on a temporary basis as a youth service building. In 2012 a change of use of the building to a children's centre was approved but the temporary consent remained allowing the retention of the building until August 2014. There is a mature tree screen adjacent to the site along the boundary with the properties in Polsham Park. The site is visible in views across the park from Torquay Road and Hyde Road.

In the Torbay Local Plan 1995-2011 the site is allocated as an Urban Landscape Protection Area (Policy L5). The boundary of the Polsham Conservation Area runs along the boundary of the park with properties in Polsham Park. The application site is not in the Conservation Area.

## **Detailed Proposals**

The existing single storey building on the site has a temporary permission until 31st August 2014 for use as a children's centre. This application is for the variation of condition 1 of application reference P/2012/0183 to allow the permanent retention of the building for use as a children centre or an extension to the existing temporary consent.

The centre will operate as it has done since 2012 offering a drop in style centre for families continuing to provide a variety of sessions. The centre is open 6 days a week with the core hours being:

Monday	9am - 3pm
Tuesday	9am - 6pm
Wednesday	9am - 5pm
Thursday	9am - 5pm (occasionally until 7pm)
Friday	9am - 6pm
Saturday	9am - 12pm

The centre also has occasional group sessions over these core hours but these are dependent on demand.

## **Summary Of Consultation Responses**

*Drainage:* No objections.

## **Summary Of Representations**

2 representations received (1 support, 1 objection). Issues raised:

- Principle supported
- Impact of cars using the park to access the building to drop off children

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

## **Relevant Planning History**

P/2012/0183	Retention and change of use of the existing youth service building with a childcare facility (class D1) APPROVED 17.10.2012
P/2009/0557	Remove disused timber changing rooms and replace with steel youth service building temporary consent until 31.08.2014 APPROVED 17.09.2009

## **Key Issues/Material Considerations**

The key issues are:

1. The Principle of the Use
2. The Permanence of the Use
3. Impact on Residential Amenity

### *1. The Principle of the Use*

As noted in 2012, the proposed use would be consistent with the objectives of Policy CF1 in the Torbay Local Plan 1995-2011, which supports the provision of community facilities. The location of the proposed children's centre is sustainable by reason of its central location within Paignton and its proximity to the town centre. It has good accessibility by public transport. The principle of providing a children's centre makes a positive contribution to the community by providing support and information for families with young children. Paragraph 69 of the NPPF recognises that the planning system can play an important role in creating healthy inclusive communities. The use employs several staff and this was stated as 22 on the 2012 application.

## 2. *The Permanence of the Use*

Policy L5 in the Torbay Local Plan 1995-2011 relates to the designation of Victoria Park as an Urban Landscape Protection Area. The policy states that development will not be permitted 'which would seriously harm the value of the open area as an open element within the townscape and the contribution it makes to the quality of the urban environment'. The existing planning consent is temporary which means that in the long term the building would be removed from the site and the openness and recreational value of the park will be maintained.

In 2012 it was considered that a permanent planning permission would not be consistent with the objective of this policy as the building is visible in distant views across the park from surrounding roads, and does impact on the quality of views across the park to the mature line of trees along the boundary with properties in Polsham Park. There have been no changes in planning policy or site circumstances since 2012 to reach a different conclusion.

The building is typical of a simple portakabin building with limited design quality and a very utilitarian appearance. The building has not been designed to take into account the setting of the site or the established character of development in the surrounding area. Policies BES and BE1 in the Torbay Local Plan 1995-2011 promote a high standard of design that makes a positive contribution to local character and distinctiveness. It was considered in 2012 that the building failed to meet the objectives of these policies in that it has a temporary appearance that fails to enhance the appearance and character of the area and there have been no policy changes since 2012 to lead to a different conclusion.

The building was granted temporary consent in 2009 to provide facilities that would make a valuable contribution to the community and it was understood that on completion of the Parkfield development the use would be moved to that facility allowing the building to be removed from the park once the use ceased. In 2012 it was considered that the permanent retention of the building on site would be inappropriate in this location, due to its limited design quality. Furthermore, the consent should tie in with the 2009 consent, so that at the end of this period a final decision could be made as to the retention of the building. This took into account national guidance recommending that a second temporary permission should not normally be granted and at the end of the first permission it should be clear whether permanent permission or a refusal is the right answer.

In 2012 there were 2 years remaining as part of the temporary consent providing the Authority 2 years to investigate any alternative locations for the Children's Centre in the long term. The Council's Early Years and Childcare Services section has over the past two years sought to find an alternative location that would enable them to continue delivering a similar level of service but without success. It was concluded that there are no alternative sites available without significant capital investment.

As there are no other premises available or suitable for this use to continue elsewhere, the refusal of this application would lead to the loss of this facility. Between April 2012 and June 2012, 1,221 children and 1,033 carers accessed the centre. Between January 2014 and March 2014 this had risen to 3,475 children and 3,127 carers. This demonstrates the importance of the facility to the local community.

On balance having noted that the building is partially screened by existing landscaping, that the building is sited in an area of the park already subject to other forms of development (i.e. tennis courts), the willingness on behalf of the applicant to carry out further landscaping to help soften the visual impact of the building and the community benefits of the facility, it is considered that the benefits of the scheme outweigh the negative impacts and permanent permission should be granted.

3. *Impact on Residential Amenity:*

The proposed building is sufficient distance from nearby properties not to cause any disturbance from noise within the building. Subject to the same conditions imposed on the 2012 application regarding hours of use, the proposal is not considered to result in a detrimental impact to residential amenity.

4. *Impact on Highways and Parking:*

As noted above the location of the proposed children's centre is sustainable by reason of its central location within Paignton and its proximity to the town centre. The site has good accessibility by public transport and there are no concerns with regard to highway safety or parking provision. The objection raised regarding the use of the park by vehicles is noted and has been referred to the applicant for investigation. This would not constitute a reason for refusal, but the applicant has been advised to explore this further. The applicant has stated that parents do not drive through the park or park vehicles next to the centre; however, on a weekly basis staff drive a vehicle to the premises in order to collect equipment to take to other locations. The applicant is investigating this further to see how often this happens and how long the vehicle is in the park.

**S106/CIL -**

N/A

**Conclusions**

The need for the facility and the loss of it is a material consideration to be assessed against other policy considerations of design and the impact on the urban landscape protection area. On balance having noted that the building is partially screened by existing landscaping, that the building is sited in an area of

the park already subject to other forms of development (i.e. tennis courts), the willingness on behalf of the applicant to implement a landscaping scheme and the positive social impacts of the use in this location it is considered that the benefits of the scheme outweigh the negative impacts, subject to the implementation of an appropriate landscaping scheme.

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

01. The use of the building hereby approved shall take place between the hours of 8.30am and 7.00pm on Mondays to Saturdays and not on Sundays.

Reason: In the interests of the residential amenity of adjoining properties in accordance with saved Policy CF1 of the Adopted Torbay Local Plan 1995-2011.

02. Within 6 months of the date of this permission, full details of soft landscape works, including an implementation and management plan, shall be submitted to and approved in writing by the Local Planning Authority. Details of soft landscape works shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); and schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. All landscaping works shall be carried out in the next planting season following approval of the submitted details. The works shall proceed 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 in the interests of visual amenity in accordance with saved Policies BE2 and L5 of the Adopted Torbay Local Plan 1995-2011.

### **Relevant Policies**

BE1 Design of new development  
BES Built environment strategy  
BE2 Landscaping and design  
L5 Urban Landscape Protection Area  
CF1 Provision of new and improved community  
NPPF National Planning Policy Framework

# Agenda Item 9

## Application Number

P/2014/0224

## Site Address

Banjo Area  
Princess Gardens  
Torquay

## Case Officer

Mr Robert Pierce

## Ward

Tormohun

## Description

Erection of a temporary wooden construction for catering and deckchair storage

## Executive Summary/Key Outcomes

This application is for retrospective consent to erect a triple wooden beach hut styled structure to house a catering kiosk and a deckchair store. The application is retrospective because the beach huts have now been sited on the paved banjo area within the Princess Gardens. The applicant has a tenancy agreement with the TDA for this year only until the end of September.

It is intended for the structure to be in place between 1st April and 30th September 2014.

The proposal would lead to the loss of a small area of public open space, however, it will improve promenade amenities to the benefit of the public/holiday makers and as the beach huts will only be on the site for a 6 month period then there will be no permanent harm to the Historic Garden.

The application is deemed to be acceptable for planning approval for this year only.

## Recommendation

Conditional Approval; subject to a temporary consent between 1st April and 30th September 2014; conditions as drafted in this report.

## Site Details

The beach hut structure is sited on the paved area within the Banjo. This is a sensitive location; it is prominent within the Torquay Harbour Conservation Area, is near to a Grade II Listed building and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. The Fountain and War Memorial, which are located close by are also Grade II listed.

### **Detailed Proposals**

This retrospective application is for the temporary erection of a triple beach hut styled structure between 1st April and 30th September 2014. The beach huts have now been erected on site and they have a traditional "seaside" appearance, painted white and blue.

A serving hatch has been formed to the frontage of two of the beach huts, for the sale of various non-alcoholic drinks (hot and cold) and foodstuffs, such as popcorn and doughnuts with the main item being candyfloss. The third hut is being used to store the deckchairs which the applicant is hiring out on behalf of the Council around the Princess Garden Area.

### **Summary Of Consultation Responses**

*English Heritage:* No objections.

*Environmental Health Officer:* No objections.

*Senior Historic Environment Officer:* No objections for temporary siting this year.

### **Summary Of Representations**

One letter of objection has been received from a Torbay resident - the main issues raised are:

- Supply of litter bins in Princess Gardens,
- Impact of seagulls eating commercial waste,
- Possible noise from generator if used, and damage to the promenade paving.

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

### **Relevant Planning History**

No immediate relevant history.

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

Due to the sensitive location of this proposal, the effect on the listed buildings, the Registered Gardens and the wider Conservation Area is a key issue.

A permanent occupation of the site by the beach huts would be, in the long term, harmful to the architectural and historical character of the site.

A permission for the beach huts to be sited for a 6 month period this year would enhance the attractiveness of the wider area for tourists and residents alike and the impacts on the heritage features of the site would only be in the short term

and reversible. Once removed the site can be quickly and satisfactorily reinstated to its former condition. In order that the situation can be constantly reviewed and to avoid the beach huts becoming permanent additions to the Historic Gardens the proposal should be reconsidered on an annual basis (as is the case with the Wheel).

**(S106)**

**N/A**

### **Conclusions**

**The siting of the beach huts should only be for a 6 month period between 1st April 2014 and 30th September 2014 after which time the huts should be removed and the site should be properly reinstated.**

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

01. The buildings hereby permitted shall be removed and the land shall be reinstated and restored to its former condition by 30th September 2014.

Reason: The use of the site by the beach huts is only acceptable on a short term basis and a more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to Saved Policies BES, BE5, BE6 and BE8 of the Adopted Torbay Local Plan 1995-2011.

02. The use hereby approved shall take place only between the hours of 8 a.m. and 7 p.m. unless with the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area and to meet the requirements of Saved Policy EPS of the Adopted Torbay Local Plan 1995-2011.

03. Customer waste bins shall be provided on the site, with at least one in close proximity to the service area and one in close proximity to the deck chair seating area, and they shall be retained permanently during the hours of trading.

Reason: To protect the amenity of the surrounding area and in accordance with the requirements of Saved Policy S8 of the Adopted Torbay Local Plan 1995-2011.

04. The Beach Huts hereby approved shall not sell hot food unless with the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area and in accordance with Saved Policy EPS of the Adopted Torbay Local Plan 1995-2011.

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- BE6 Development affecting listed buildings
- BE8 Historic parks and gardens
- BE5 Policy in conservation areas
- EPS Environmental protection strategy

**Application Number**

P/2014/0504

**Site Address**

Highways Land On  
Lower Warberry Road  
Torquay  
TQ1 1SH

**Case Officer**

Verity Clark

**Ward**

Wellswood

**Description**

Erection of a 15m column with additional cabinets and ancillary development

**Executive Summary/Key Outcomes**

The proposal is for the erection of a 15m column with four additional cabinets and ancillary development.

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 within the context of the Warberries Conservation Area.

The application is deemed to be acceptable for planning approval.

**Recommendation**

Conditional approval; condition as drafted

**Statutory Determination Period**

8 weeks, expired 8.8.14, this application has gone over time due to the need to report to the Development Management Committee following a number of objections. An extension of time will be sought with the applicant.

**Site Details**

The application site is highway land on Lower Warberry Road located south of the block of flats 'Sorrento' and situated on an area of pavement.

The site is located within the Warberries Conservation Area.

**Detailed Proposals**

The proposal is to remove the existing 10 metre high telecommunication pole and install a 15 metre high telecommunications pole 1.8 metres to the left of the existing pole's location. The proposal also includes the addition of four street cabinets to be situated to the right hand side of the existing street cabinet.

### **Summary Of Consultation Responses**

See key issues section below.

### **Summary Of Representations**

6 objections have been raised and a petition with 24 signatures has been received. Issues raised:

- Impact upon the Conservation Area
- Visually obtrusive
- Relationship with nearby buildings
- Impact on light levels
- Alternative locations should be considered
- Impact on outlook
- Health impacts

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

### **Relevant Planning History**

P/2008/1409            Telecommunications application - installation of 10M slimline monopole supporting shrouded antennas with equipment cabinet. APPROVED 05/12/08

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

This application is for a planning application as opposed to a prior approval application. The proposal was originally submitted as a prior approval however due to the location of the proposal within a Conservation Area the proposal could not be processed as a prior approval. As a result the application type was changed and re-advertised.

The existing telecommunications equipment provides coverage for the 2G network in the area. With the release of 4G the site needs to be upgraded to allow for 3G and 4G coverage. The existing column is structurally unable to accommodate the required amount of antennas and a stronger replacement structure is therefore required. The proposal is part of a joint venture by O2 and Vodafone and is intended in the long term to reduce the number of base stations nationally by consolidating single use base stations.

The applicant has indicated that the site has been chosen because an existing base station is in situ and the upgrading of the site can be undertaken rather than works taking place in a new location. The overall impacts of the proposed upgrade can be undertaken with negligible additional visual impacts on the area.

It should be noted that guidance from the NPPF on determining planning applications for communications infrastructure states that:

"Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure."

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 Warberries Conservation Area and the amenity of neighbouring properties.

The Council's Urban Design Officer was consulted verbally and did not raise an objection. Although it is noted the proposal is within the Conservation Area, the location of the pole is within close proximity to existing street furniture. The increase in height is not considered significant in terms of visual impact and impact on the Conservation Area. In this instance alterations to the design or forms of screening are not considered appropriate. The design of the pole and associated antenna is of a streamline design and is considered to be appropriate.

The height of the pole would be similar to the block of flats to the north. However, it would not impact on privacy or daylight to the flats to any significant degree. The four additional street cabinets are considered to be appropriate in terms of design and location. They are to be sited on a section of pavement next to an existing street cabinet. The location would allow adequate space for users of the pavement.

In order to avoid a proliferation of redundant masts and in the interests of visual amenity should Members approve the application a planning condition is recommended to ensure any redundant equipment is permanently removed from the site and the land is returned to its former condition.

**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. Should any part of the apparatus hereby approved become redundant it shall be permanently removed from the site and the land shall be reinstated to its former condition unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid a proliferation of redundant masts, in the interests of visual amenity, in accordance with Saved Policies BES, BE1, IN3 and IN4 of the Adopted Torbay Local Plan 1995 - 2011.

**Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- BE5 Policy in conservation areas
- IN3 Telecommunications
- IN4 Redundant telecommunications equipment

**Application Number**

P/2014/0505

**Site Address**

Highways Land On  
Grafton Road  
Torquay  
TQ1 1UL

**Case Officer**

Verity Clark

**Ward**

Wellswood

**Description**

Erection of a 15m T range column with dual stack antennae in shroud, additional cabinets 2 dishes and ancillary development

**Executive Summary/Key Outcomes**

The proposal is for the erection of a 15m T range column with dual stack antennae in shroud, additional cabinets, 2 dishes and ancillary development.

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 within the context of the Warberries Conservation Area.

The application is deemed to be acceptable for planning approval.

**Recommendation**

Conditional Approval; condition as drafted.

**Statutory Determination Period**

8 weeks, expired 8.8.14 - this application has gone over time due to the need to report to the Development Management Committee following a number of objections. An extension of time will be sought with the applicant.

**Site Details**

The application site is an area of pavement at the junction of Hillesdon Road and Grafton Road.

The site is located within the Warberries Conservation Area.

**Detailed Proposals**

The proposal is to remove the existing 10 metre high telecommunication pole and install a 15 metre high telecommunications pole 3.3 metres to the right of the existing pole's location. The proposed pole will include the addition of two dishes



It should be noted that guidance from the NPPF on determining planning applications for communications infrastructure states that:

"Local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure." (Para 46)

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 Warberries Conservation Area and the amenity of neighbouring properties.

The Council's Urban Design Officer was consulted verbally and did not raise an objection. The location of the equipment is within the Warberries Conservation Area, however due to the prominence of existing street furniture such as the telegraph pole and nearby streetlights, it is considered that the proposed pole is in keeping with the existing streetscene. Due to the location, it is not considered that alterations to the design or forms of screening are required.

The proposed telecommunications pole would be 15 metres in height and include two dishes situated 8.8 metres up the proposed pole. This would replace the existing 10 metre high pole. Whilst it is acknowledged that the telecommunications equipment is located within the Conservation Area the design of the pole with associated antenna is of a fairly streamlined design and is considered to be appropriate within the context of the locality. The two additional dishes are considered to be of a size and scale suitable for the appearance of the overall proposal. The proposal is not considered to be of a materially detrimental design, appearance and height compared to the previously approved telecommunications equipment. The increase in height of the pole is considered acceptable and not out of scale with the surrounding street furniture or buildings. The pole would not impact on the amenity of nearby properties in terms of privacy or loss of light. The three additional street cabinets are considered to be appropriate in terms of design and location. They are to be sited on a section of pavement left of the proposed pole. The location will allow for adequate space for users of the pavement and will fit in with the wall located to the rear.

In order to avoid a proliferation of redundant masts and in the interests of visual amenity should Members approve the application a planning condition is recommended to ensure any redundant equipment is permanently removed from the site and the land is returned to its former condition.

**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. Should any part of the apparatus hereby approved become redundant it shall be permanently removed from the site and the land shall be reinstated to its former condition unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid a proliferation of redundant masts, in the interests of visual amenity, in accordance with Saved Policies BES, BE1, IN3 and IN4 of the Adopted Torbay Local Plan 1995 - 2011.

### **Relevant Policies**

BES Built environment strategy  
BE1 Design of new development  
BE5 Policy in conservation areas  
IN3 Telecommunications  
IN4 Redundant telecommunications equipment

**Application Number**

P/2014/0511

**Site Address**

Mount Stuart Hospital  
St Vincents Road  
Torquay  
Devon  
TQ1 4UP

**Case Officer**

Mr Robert Pierce

**Ward**

Tormohun

**Description**

Single storey extension to provide a third operating theatre - installation of portacabin for admin use and associated plant - staff rest room in existing roofspace

**Executive Summary / Key Outcomes**

Mount Stuart is a privately owned hospital which is being asked to treat more and more NHS referred patients. It currently has two operating theatres and a third one has now become necessary to meet this extra demand. The proposal is therefore to extend the existing building which would accommodate a third operating theatre and ancillary facilities, associated air/chiller plant, a portacabin and additional external storage areas. This would result in the loss of 7 car parking spaces in order to accommodate the new extension, but this has been compensated for by the recent completion of a new on-site car park providing 24 spaces. This is considered to be a sustainably located new facility which would benefit the local community and create 8 new full time jobs. It would result in the footprint of the hospital being extended closer to adjacent residential properties; however, whilst this would inevitably result in the building being more visually prominent when viewed from the rear of these houses, it is not considered that it would be so overbearing as to adversely impact their overall residential amenity.

Subject to a Committee Site Visit to assess the impact on adjacent residential properties, the proposal is considered to be appropriate for a conditional approval.

**Recommendation**

Conditional Approval; subject to no objections from Community Safety; conditions delegated to Director of Place.

**Statutory Determination Period**

8 Weeks (23rd July 2014). The applicant's agent has agreed to extend the time period for determination to 30th August 2014.

**Site Details**

Mount Stuart Hospital is located within a residential area which fronts onto St

Vincent's Road. It offers a wide range of procedures including hip and knee replacements, dental surgery and sports rehabilitation. It currently has two operating theatres and now benefits from a recently completed additional car park with 24 spaces. It is undesignated in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan').

### **Detailed Proposals**

There are several elements to the proposal as follows:

1) A single storey rear and side extension to provide a third operating theatre with ancillary areas. The extension would be wrapped around the north west corner of the property and it would have a mansard type roof construction which would have a similar appearance to the existing roof, but would have a sunken roof well behind which would be sited new air plant/extraction units to service the theatre below. The roof would be tiled in brown concrete interlocking tiles to match the existing and the walls would be finished in white render to contrast with the existing buff/brown facing brickwork of the main building. In order to allow for access around the rear of the extension it is proposed to level out a 12 metre by 2 metre length of ground below the northern site boundary, which would be retained by extending the existing boundary wall. A bank of 7 new chiller units would be sited along the rear elevation of the existing building to serve the new theatre.

2) A standard type portacabin is to be located to the rear of the hospital which would be used for the storage of medical records in one half and as an office for the hospital engineer in the other. The Portacabin would be faced in Plastisol grey coloured metal cladding. The use of the portacabin would free up space within the main hospital building for Clinical use.

3) Other minor works include a relocated storage area for general/clinical bins to be constructed in close boarded timber fencing and a gas bottles cage opposite the side elevation of the extension, and a cage for storing liquid oxygen containers to the front elevation. On the roof at the front of the existing building it is proposed to install a new kitchen flue, a new kitchen air plant within the existing internal courtyard and 4 additional chiller units on the front elevation.

### **Summary Of Consultation Responses**

*Highways/Strategic Transportation:* No objection but would require application of the SPD contribution at £12,929. This contribution will support the provision and enhancement of cycle links in the vicinity of the site and onwards to the Town Centre plus Shipway / Newton Abbott directions along the National Cycle Network 28, to enable visitors and staff to have convenient and suitable routes for everyday trips by non-car modes. It will also mitigate extra vehicle trips that the proposal will generate by helping existing neighbours to also give up their cars for some of their shorter trips.

This is in accordance with the Local Authority policy to improve sustainable transport

opportunities and enabling travel by sustainable modes, particularly for short journeys.

*Community Safety:* Comments awaited.

### **Summary Of Representations**

4 letters of objection received from occupiers of properties on Parkhurst Road. The main issues raised are as follows:

- The extension would be too close to their boundaries.
- Would infringe on privacy.
- Loss of parking.
- Overdevelopment of the site.
- Would encroach on views, ambience and light of rear garden to No 5 Parkhurst Road.

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

### **Relevant Planning History**

P/2014/0511: Formation of additional car parking: Approved 8.11.2012.

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

The key issues to consider in this application are:

1. Principle of the development
2. Visual impact from a public view
3. Impact on neighbour amenity
4. Noise/odour from Air Extraction Plant etc.
5. Loss of car parking

#### *1. Principle of the development*

The principle of the development is acceptable as it would support an existing community use and generate jobs.

#### *2. Visual impact from a public view*

The bulk of the extension would be sited to the rear of the existing building and would project out from the side by approximately 4 metres in the north west corner of the site. It would be set back from the road frontage and would therefore not be visually prominent within the streetscene. The design of the extension reflects the style and form of the main building and it would have a wraparound pitched roof to match the existing, concealing the theatre air plant within the roof well. The roof tiles and windows would match the existing. In contrast to the brickwork used in the main building the extension would have a white rendered finish. Not only would this allow

for more internal space to be achieved it would provide an attractive contrast to the main building and break up any visual monotony. The use of render also reflects the rendered finish to Chapel Court development to the rear of the site.

The air plant on the roof would not be visible from a public view as it would be screened by the mansard style roof. The portacabin is to be sited at the rear of the existing building and would not be visible from a public view either.

Therefore, the application accords with Local Plan Policies BES and BE1.

### *3. Impact on neighbour amenity*

The extension would have the effect of moving the hospital closer to the 4 residential properties immediately adjacent to the north west of the site. The building would therefore be more visually prominent than it is at present. There are no windows within the elevations of the extension, so there would be no loss of privacy. The impact on "Edale", St Vincents Road and Nos 1 and 3 Parkhurst Road is lessened to quite a degree because these properties all have well screened rear gardens and it is only the lesser side element which would project out towards them. It is considered that the impact on these 3 houses would not be significant enough to adversely affect their residential amenity.

The bulk of the extension would project towards the lower half of the garden of No 5 Parkhurst Road. However, the submitted sectional drawings indicate that the ground floor level of the hospital is approximately 2 metres lower than the garden, which is screened by a 2 metre high boundary fence. The eaves level of the extension would remain below the boundary fence, but the pitch of the roof would gradually rise up above it. Due to the angle of the new build the extension would gradually close in towards the boundary from 7 metres at one corner to 2 metres at its nearest point. Whilst the new extension would be more visually prominent when viewed from the lower half of the garden the overall impact is reduced, as the slope of the roof would rise away from the boundary. It is considered that it would not have an unacceptable impact on the residential amenity of No 5 Parkhurst Road. Therefore, the application is acceptable with regard to this issue.

### *4. Noise/odour from Air Extraction Plant etc.*

Part of the application involves the siting of air plant/extraction units on the roof of the extension to service the Operating Theatre below and also the siting of a bank of 7 chiller units against the existing rear elevation of the building, 4 chiller units on the front of the existing building together with a new kitchen extractor on the roof of the existing building and new kitchen air plant within an internal courtyard. This equipment could create a nuisance by way of noise and odour, which may have to be controlled. The response from Community Safety is awaited. No technical details have been submitted with the application in this respect, therefore a condition is recommended as drafted below. Further conditions may be necessary following the consultation response from Community Safety. Therefore, officers seek delegated authority to finalise conditions post committee.

#### *5. Loss of car parking*

The proposed extension would result in the loss of 7 car parking spaces to the rear of the site. This is not considered to be an issue because a new car park on the former site of the adjoining chapel has been completed, which makes provision for 24 additional spaces.

#### **S106/CIL -**

The sustainable transport contribution has been calculated at £12,929. However, this does not mitigate for jobs created.

Taking into account mitigation for the creation of 8 full time jobs on the site, no contribution towards sustainable transport would be required from this development.

#### **Conclusions**

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

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

01. Prior to the commencement of the development, details of the type, specification and noise/odour levels of all of the proposed air supply and extraction units and chiller units shall be submitted to and approved in writing by the Local Planning Authority. The approved systems shall be installed and permanently maintained to the agreed specification thereafter whilst the operation is in use.

Reason: In the interest of the residential amenity of the surrounding area and in accordance with requirements of Saved Policies EP3 and EP4 of the Adopted Torbay Local Plan 1995-2011.

#### **Relevant Policies**

BES Built environment strategy  
BE1 Design of new development  
T25 Car parking in new development  
CFS Sustainable communities strategy  
CF1 Provision of new and improved community  
EPS Environmental protection strategy  
EP3 Control of pollution  
EP4 Noise

# Agenda Item 13

## Application Number

P/2014/0608

## Site Address

Land At Rainbow Drive/Queens Wood  
Shiphay Lane  
Torquay  
Devon

## Case Officer

Mr Robert Pierce

## Ward

Shiphay With The Willows

## Description

Construction of new 2.5m wide shared use tarmac cycleway from Shiphay Lane to Crownhill Rise

## Executive Summary/Key Outcomes

As part of Torbay Council's Local Sustainable Transport Funding it is proposed to provide a cycle route from Torbay Hospital to Torquay Harbour linking to the new Ferry service to Brixham. This application is for the section of the cycle route from Shiphay Lane to Crownhill Rise along land which is owned by Torbay Council.

The key issues are the principle of allowing the development within a woodland setting, the visual impact of the development, accessibility, the impact on residential amenity and ecological considerations.

The scheme offers a significant opportunity for Torbay to continue to develop and improve the cycling network. It is considered that the benefits to the community offered by the scheme offsets any harm to the woodland setting which is designated as an Urban Landscape Protection Area, Wildlife Corridor and a Locally Important Wildlife Site.

The application is not considered to have a detrimental impact in ecological terms, it would not be visually intrusive and it would not have any adverse impact on residential amenity.

## Recommendation

Conditional approval.

## Statutory Determination Period

8 Weeks (21st August 2014)

### **Site Details**

This is a linear site approximately 710 metres in length and is bounded to the east by the railway line and to the west by woodland (Queens Wood) with residential beyond. The entrance to the cycle route would utilise the existing driveway next to the railway bridge on Shiphay Lane through the Rainbow Estate towards Rowcroft Hospital. Half way along the driveway the cycle path would divert down to the lower level of Queens Wood where it would rejoin the existing unmarked footpath, which runs parallel to the railway line where it would exit out along the existing access lane between the houses onto Crownhill Rise.

### **Detailed Proposals**

The cycle path would commence in 'contra flow' off Shiphay Lane along the existing tarmac driveway through the Rainbow Estate towards Rowcroft Hospice. In order for it to traverse the significant change in gradient, it would require the formation of an embankment of varying height of between 0.3 metres and 2 metres. The embankment enables the formation of a 2.5 metre wide length of cycle path with a bituminous tarmac surface and retained by stone gabion baskets. It would descend over a distance of 200 metres at a gradient of 1 in 10 towards the lower level of Queens Wood protected to the side by a 1.4 metre high post and rail fence. It would then rejoin the existing footpath which would also be surfaced in bituminous tarmac at a width of 2.5 metres when it would finally connect into the existing access lane out onto Crownhill Rise. If costs allow there would be low level lighting at agreed locations along the cycleway. The application is supported by an Extended Phase 1 Habitat Survey, a Bat Activity Survey and Dawn-Re-entry Survey of Tree - Interim Report and an Arboricultural Impact Assessment Report (AIA).

### **Summary Of Consultation Responses**

*Arboricultural Officer:* Agrees with the contents of the AIA which defines tree, species, quality, overview of risk posed and preliminary tree protection plans.

The AIA was prepared at an early stage of the process and serves to support the planning application. The present use of the footpath element of the scheme and vehicular portion along Rainbow Drive is relatively light in footfall and traffic movement, therefore tree management to date has been of low priority and works have been reactive and ad hoc. The change to a shared use cycleway will introduce a significant increase in risk posed by the trees to users of the path.

Cyclists travelling at greater speeds than pedestrians will have less time to react to any fallen/ falling parts and increased use by pedestrians, increasing periods of occupancy under trees dramatically. Given this increase in risk there is a requirement to re-categorise management levels. All trees that may pose a risk of falling across the cycleway will require detailed inspection prior to opening and any tree works resultant must be implemented to ensure compliance with duty of care. A period of 5 years inspection and management should be provided for by

the scheme as the construction implications upon tree health may not evidence within early years given trees often slow response to changes of soil levels, water flow, soil structure compaction and so on.

Where trees are proposed to be removed to allow the build, provision for replacement should be made of species in accordance with habitat retention and improvement objectives on a like for like basis in terms of numbers.

The 1st phase of the cycle way at the hospital end used a method of construction that would readily transfer across to this scheme in tree terms.

On aesthetic and practical grounds the use of long straight runs is discouraged to prevent excessive speed and to allow the cycleway to present a more natural appearance.

#### Recommendation

That the scheme be suitable for approval on arboricultural merit subject to a pre-commencement condition which updates the AIA to include various tree protection/replacement measures.

*Natural England:* Advises that the proposal is unlikely to affect any statutorily protected sites or landscapes. The application was not assessed for impacts on protected species and Standing Advice on protected species applies.

*RSPB:* No concerns in relation to adverse impact on birds providing all removal of bramble, other scrub and trees avoids the period March to August. Generally supportive of the mitigation measures set out in Extended Phase 1 Habitat Survey and the Bat Activity Survey and Dawn Re-entry Survey of Tree - Interim Report but raise the following concerns and recommendations :

- 1) The results of the summer and autumn bat surveys should be made available before any development commences.
- 2) All lighting should minimise spill and Lux levels and any new lighting should be designed and installed to avoid illumination of currently dark areas away from the path itself.
- 3) Removal of vegetation during the construction period should avoid the bird nesting season (March to August inclusive).

*Network Rail:* No objection in principle but the requirements for the safe operation of the railway and the protection of Network Rail's adjoining land are as follows:

- 1) If not already in place Torbay Council must provide at their expense a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing/wall must

not be removed or damaged.

2) Additional or increased flows of surface water should not be discharged onto Network Rail land or into Network Rail's culvert or drains. Soakaways should not be constructed within 20 metres of Network Rail's boundary.

3) Any lighting associated with the development must not interfere or give rise to confusion with train drivers vision or signalling.

*Police Architectural Liaison Officer:* The route should remain as straight as possible so the user can see what is ahead and/or behind. Consideration will need to be given to the type of planting/landscaping next to the route (if applicable). It should not be able to encroach onto the path, hinder surveillance or create hiding places. Taller planting can be used further back from the route. The route should be well maintained to encourage surveillance.

There are two schools of thought with regard to lighting - If the route (or part of it) is lit, it could give a false sense of safety/security if there is no surveillance but with no lighting it may result in the cycleway being underused with the user choosing another route as they won't feel safe in the darkness. Lighting only works well where surveillance supports it. A compromise to encourage use during winter months (dark mornings and late afternoons) could be for lighting to be installed by only being activated at certain times.

It is preferred the route does not run to the rear of dwellings or provide access to rear gardens, (if applicable and wherever possible) as these have been proven to generate crime.

If the route becomes isolated at any point it should be at least 3 metres wide (to allow people to pass without infringing personal space and to accommodate passing wheelchairs)

Before placing any seating (or structures capable of being sat upon) next to the route, the context in terms of the physical and social environment should be considered. Seating can be a valuable amenity or become a focus for anti-social behaviour, whereas at a different point on the same route, perhaps with better natural surveillance, it may be trouble-free. Where existing seating (if applicable) appears to be a problem, relocation is often an option worth exploring in order to retain some seating.

*Engineering/ Drainage:* Comments awaited

*Torbay Coast and Countryside Trust:* Comments awaited.

### **Summary Of Representations**

None

### **Relevant Planning History**

None directly relevant.

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

The Key issues in relation to this application are:

1. The Principle of the Development
2. Visual Impact
3. Accessibility
4. Impact on Residential Amenity
5. Impact on Ecology

#### *1. The Principle of the Development*

The principle of the development is acceptable and accords with Local Plan Policies TS and T3. The application site is linear in nature and currently provides a recreational walking route through a woodland setting. The proposed cycleway would not only provide a new and safe "off road" cycling route which would link in with the rest of the cycling network, it would also result in an improvement to the existing route for walkers. The new cycle track would not harm the value of the area as an open element within the townscape and the contribution it makes to the quality of the urban environment. Whilst the proposal involves the formation of a 200 metre length of retained embankment, subject to the use of natural stone gabions or similar then the essential natural landscape features of the area would be preserved. Therefore, the proposal also accords with Local Plan Policy L5 (Urban Landscape Protection Areas).

#### *2. Visual Impact*

This is a linear site predominantly located in a woodland setting and, subject to low level lighting, the impact of the development, in visual terms, is not considered significant. Apart from the formation of the embanked section, the works proposed are minimal and well screened along the side of the railway. It is considered that natural stone gabion baskets retaining the embanked section would blend into the background of the woodland environment. The proposed cycleway is therefore considered to be acceptable in visual terms and would not result in any serious harm to the Urban Landscape Protection Area.

#### *3. Accessibility*

Access at each end of the site would be provided via existing entrances from Shiphay Lane and Crownhill Rise. It would therefore be very accessible for cyclists, particularly those coming across Shiphay Lane from the new cycle track that links to the Hospital.

#### *4. Impact on Residential Amenity*

It is not considered that the proposed cycle track would have an adverse impact on residential amenity. Most of the route is positioned well away from residential properties within a woodland setting. It is only at the Crownhill Rise entrance/exit

where it runs alongside three houses. However, this is already a well established pedestrian route and therefore use by cyclists passing through would not be disruptive to residential amenity.

#### *5. Impact on Ecology*

There has been substantial assessment of the potential impacts of the scheme from an ecological and wildlife perspective. This is due to a range of potential constraints within the site, including a Wildlife Corridor and Locally Important Wildlife Site, and the use of the area by protected species (specifically Bats) and the wider role of these areas in relation to biodiversity.

Consultation responses have been received from Natural England and RSPB which do not object, subject to matters that can be addressed by condition and Natural England standing advice. Each of the supporting documents provide recommendations which would improve the scheme from an ecological perspective, including: habitat creation; provision of bird and bat boxes; a management regime which should maintain the mosaic, scrub and rough grassland (subject to consultation with Torbay Coast and Countryside Trust); and the creation of habitat piles to provide sites for invertebrates, amphibians, reptiles and small mammals. These elements are again a significant enhancement to the scheme. These elements would need to be incorporated into a wider Landscape and Ecological Management Plan (LEMP), which would be conditioned as part of the planning permission.

The Bat Activity Survey also identifies the sensitivity to light spill which can impact upon the use of the area by Bats. In this respect, where possible, new lighting associated with the cycle path should be designed to limit light spill. Ideally this should be achieved through the use of appropriate luminaire accessories such as hoods, shields and louvres. Limiting lighting within the site would allow bats to continue to forage/commute through the site, in particular lesser horseshoe bats which are particularly sensitive to light and require the maintenance of dark corridors.

In conclusion, while there are issues surrounding the development from an ecological perspective, the scheme delivers significant benefits, which alongside a detailed management strategy would deliver significant ecological improvements to the site and wider area.

**S106/CIL -**

N/A

#### **Conclusions**

The scheme offers a significant opportunity for Torbay to continue in its ambition to provide enhanced cycling facilities within the Bay. The impacts of the provision of the facility are able to be appropriately controlled via detailed conditions. This is specifically important to the way the environmental benefits are secured.

Subject to the detailed conditions set out the application is recommended for conditional approval.

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

01. The development hereby approved shall not commence until a detailed Landscaping and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority, the development shall thereafter be undertaken and maintained in strict accordance with it. The LEMP shall include the details and implementation of the recommendations of the Approved Extended Phase 1 Habitat Survey, Bat Activity Survey and Dawn Re-entry Survey of Tree - Interim Report.

Reason: To ensure the protection of a Wildlife Corridor, a Locally Important Wildlife Site and surrounding area for Bat foraging and flight paths, the nesting of birds and in accordance with saved Policies EPS, EP5, NCS, NC4 and NC5 of the Adopted Torbay Local Plan 1995-2011 and section 11 of the NPPF.

02. The use of the cycleway hereby approved shall not commence until all of the requirements set out in Network Rail's Letter dated 10th July 2014 in respect of 1) Fencing, 2) Drainage, 3) Safety and 4) Lighting have been fully incorporated and complied with. Details of these elements shall be submitted to and approved in writing by the Local planning Authority prior to their installation.

Reason: To ensure that the use of the cycleway does not interfere with the safe operation of the railway and that Network Rail's land is adequately protected and in accordance with saved Policy T3 of the Adopted Torbay Local Plan 1995-2011 and the requirements of Paragraph 4 of the NPPF.

03. The development hereby approved shall not commence until the Arboricultural Report submitted with the application has been revised to ensure inclusion of the following matters:- A Method statement for construction within the rooting zones of trees which amplifies the requirement that no machinery leaves the approved work area to enter the defined root protection zones at any point within the build.- A Programme of arboricultural supervision at key junctures in the build to be reported back to the Authority.-A Landscape plan for native mitigation planting including 5 year maintenance period to replace losses and adjust supports.- Provision of budgetary support for a detailed tree survey of all trees in full length of the cycleway including undertaking of tree works prescribed for a 5 year period post completion. The revised Arboricultural Report shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development hereby approved. The development shall be carried out fully in accordance with the revised Arboricultural Report.

Reason: To ensure that all existing trees along the length of the cycleway are adequately protected while the development is in progress and to ensure that landscaping as approved is allowed to become established and to comply with the objectives of saved Policy L9 of the Adopted Torbay Local Plan 1995-2011.

04. No lighting shall be installed along the cycle track without the prior approval of the type and specification of lighting by the Local Planning Authority. The lighting shall be installed as approved.

Reason: To ensure the protection of Wildlife Corridor and surrounding area for bat foraging and flight paths, and in accordance with saved Policies EPS, EP5, NCS, NC4 and NC5 of the Adopted Torbay Local Plan 1995-2011 and section 11 of the NPPF.

### **Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- NC3 Protected sites - locally important site
- NC4 Wildlife Corridors
- LS Landscape strategy
- L5 Urban Landscape Protection Area
- TS Land use transportation strategy
- T3 Cycling
- L9 Planting and retention of trees