



Friday, 30 January 2015

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 9 February 2015

commencing at **2.00 pm**

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

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Morey (Vice-Chair)

Councillor Addis

Councillor Brooksbank

Councillor McPhail

Councillor Pentney

Councillor Pountney

Councillor Stockman

Councillor Tyerman

Working for a healthy, prosperous and happy Bay

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

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01803 207087**

Email: governance.support@torbay.gov.uk

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**
To confirm as a correct record the Minutes of the meeting of this Committee held on 12 January 2015.
3. **Minutes of Previous Meeting** (Pages 1 - 2)
4. **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.)
5. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
6. **P/2014/0997/MPA Devon Hills Holiday Village, Totnes Road, Paignton** (Pages 3 - 11)
Proposed touring caravan area to provide for 42 touring pitches with a facilities building.
7. **P/2014/0965/MPA Former Royal Garage Site, 4-24 Torwood Street, Torquay** (Pages 12 - 40)
Mixed use development of hotel, 1 No A1 unit, 3 No A3 units, 3 No B1 office use units and 1 No B1 office use or D1 gym use unit at former Royal Garage site, involving the demolition of property Nos 4-24 Torwood Street, Torquay.

8. **P/2014/1062/MPA Gleneagles Hotel, Asheldon Road, Torquay** (Pages 41 - 61)
Demolition and Redevelopment to form 36 retirement apartments for the elderly including communal facilities, access, car parking and landscaping.
9. **P/2014/1215/MPA Combe Pafford School, Steps Lane, Torquay** (Pages 62 - 66)
Removal of detached two storey temporary building and construction of infill building to accommodate teaching space and vocational training.
10. **P/2014/1231/MPA Jewson Ltd, St James Road, Torquay** (Pages 67 - 75)
Demolition of Jewsons builders store and redevelopment to provide 24 no. residential apartments in a three storey building with 20 car parking spaces, a detached three storey office building and store to the rear of the site with parking. (Re-Submission of P/2014/0185).
11. **P/2014/1107/PA Westbourne Hotel, 106 Avenue Road, Torquay** (Pages 76 - 82)
Change of use from hotel to house in multiple occupation (HMO).
12. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
13. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 4 February 2015. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Note

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



Minutes of the Development Management Committee

12 January 2015

-: Present :-

Councillor Kingscote (Chairman)

Councillors Morey (Vice-Chair), Addis, Brooksbank, McPhail, Pentney, Pountney, Stockman and Tyerman

(Also in attendance: Councillor Lewis)

72. Minutes

The Minutes of the meeting of the Development Management Committee held on 8 December 2014 were confirmed as a correct record and signed by the Chairman.

73. P/2014/1147/MPA, Land Adj. Sharkham Village, St Marys Hill, Brixham

The Committee considered an application for the partial re-grading of Coastal Field with inert top and subsoil from adjacent Sharkham Village development.

Prior to the meeting written representations were circulated to Members.

Resolved:

Approved subject to:

- i) confirmation from Natural England regarding Habitat Regulation Assessment issues and agreement from Natural England that an acceptable level of mitigation details has been submitted; and
- ii) the conditions set out in the submitted report except condition 2 which is deleted and condition 5 which is to be revised, a condition restricting operating hours to between 8 am and 6 pm on weekdays, 8.30 am to 12.00 noon on Saturdays with the site being closed on Sundays. An additional condition relating to the siting of bat and bird boxes with any further conditions being delegated to the Director of Place.

(Note: Councillor Tyerman declared a non-pecuniary interest as he is a Council appointed Trustee of Torbay Coast and Countryside Trust.)

74. P/2014/0965/MPA, Former Royal Garage Site, 4-24 Torwood Street, Torquay

The Committee considered an application for a mixed use development of hotel, 1 No. A1 unit, 3 No. A3 units, 4 No. external purpose units (L1 = D2 fitness centre and L2 = B1 office suite) at former Royal Garage site, involving the demolition of property Nos. 4-24 Torwood Street, Torquay.

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

Resolved:

That the application be deferred in order for a viability assessment to be completed.

Chairman/woman

Agenda Item 6

Application Number

P/2014/0997

Site Address

Devon Hills Holiday Village
Totnes Road
Paignton
Devon
TQ4 7PW

Case Officer

Mr Alexis Moran

Ward

Blatchcombe

Description

Proposed touring caravan area to provide for 42 touring pitches with a facilities building.

Executive Summary/Key Outcomes

The application seeks permission for the use of a 2.05 hectare part of the site to the east of the Devon Hills Holiday Village complex for the siting of 42 touring caravan pitches between 1st March and 31st October and the erection of a small scale building to provide toilets, showers and washing up facilities.

The site is within the sustenance zone and strategic flyway for the Berry Head Greater Horseshoe Bat roost protected by the Berry Head Special Area of Conservation (SAC). The site is also within the Countryside Zone and an Area of Great Landscape Value (AGLV).

The proposal will provide improved “5 star” pitch facilities providing valuable additional tourist accommodation for Torbay. The applicant has stated that the off-site spend into the local economy from the 42 touring caravans at Devon Hills Holiday Village would be in the region of £122,000 per annum. The proposal will help deliver Torbay’s Tourism Strategy.

It is considered that the key issue with regards to the Countryside Zone and AGLV can be overcome with suitable landscaping to screen the caravan pitches. Conditions should be added to any approval to ensure this.

A Habitat Regulation Assessment has also been undertaken on the site. The result of this was that the proposal would not have a likely significant effect on the integrity of the South Hams Greater Horseshoe Bat SAC.

The proposal has also been subject to an EIA screening to determine whether the development is likely to have significant effects on the environment. The conclusion of the screening was that the proposal is not deemed to have a significant ecological or visual impact. Therefore an EIA has not been requested.

It is considered that, subject to suitable conditions with regards to further ecological

works and mitigation and confirmation from Natural England that they agree with the findings of the Habitat Regulation Assessment (HRA), that the application should be approved.

Recommendation

Conditional approval, subject to confirmation from Natural England on HRA issues; submission of plans showing visibility splay and development away from tree canopies. Suggested conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

This application has a 13 week deadline which is 11.02.2015, due to the requirement of an HRA the Council and the applicant have agreed an extension of time.

Site Details

The site relates to a 2.05 hectare area of land to the east of Devon Hills Holiday Village which forms part of the holiday village site and is currently used for camping and caravan rallies throughout the year. It is located off of the Totnes Road and opposite Beechdown Holiday Park. The site currently comprises semi improved grassland with a tree belt in the northern half and mature landscaping along the northern and southern eastern boundaries. The south western boundary adjoins the existing holiday development.

The applicant advises that Devon Hills Holiday Village has planning permission for a total of 290 holiday caravans. It also contains a large central leisure complex.

In terms of designation and land use policies; the site is within the sustenance zone and strategic flyway for the Berry Head Greater Horseshoe Bat roost protected by the Berry Head Special Area of Conservation (SAC). The site is also within the Countryside Zone and an Area of Great Landscape Value.

Detailed Proposals

The application seeks permission for the use of a 2.05 hectare part of the site to the east of the Devon Hills Holiday Village complex for the siting of 42 touring caravan pitches between 1st March and 31st October and the erection of a small scale building to provide a reception area, toilets, showers and washing up facilities. The proposed building would measure 9 metres by 7.8 metres. It would be single storey with a pitched roof over. Materials would be cedar clad walls with decra lightweight grey roof tiles. Windows and doors would be white upvc. The building would be sited adjacent to the proposed entrance to the touring element of the park.

The access into this part of the site is already in place and is used in conjunction with the existing camping and caravan rallies which take place but has most recently been restricted for maintenance vehicles only. The access to the caravan pitches is to be improved with reinforced grass roads to maintain the rural character of the site. The

road will allow separate access to each pitch and provide safe pedestrian access to the rest of the site and recreation areas.

It is proposed to provide strategic areas of internal landscaping within the application site.

The pitches are of sufficient size to qualify as 5 star standard and can accommodate a touring caravan, an awning and a car.

The proposal has been subject to an EIA screening, to determine whether the development is likely to have significant effects on the environment. The conclusion of the screening was that the proposal is not deemed to have a significant ecological or visual impact. Therefore an EIA has not been requested.

A Habitat Regulation Assessment has also been undertaken on the site. The result of this was that the proposal would not have a Likely Significant Effect on the integrity of the South Hams Greater Horseshoe Bat SAC and provides advice on suitable mitigation and conditions regarding lighting details.

Summary Of Consultation Responses

Arboricultural Officer Objects to proposal as submitted on the basis of concerns regarding the relationship between the trees in pitches 1-3 and 7-12. Future stationing of caravans presents a potential risk to occupants/ property from limb and debris fall typical of the tree species.

The applicant has confirmed that there is space to move the caravans 3-4 metres from the trees and a plan is awaited to confirm this.

Urban Design Officer The site is well screened by existing vegetation in views from the south. There will be close views of pitches 8-20 and 28-34 from the north and west of the site (West Blagdon). These views in time will be mitigated by the proposed new woodland planting shown on drawing no.WI768 1001 Rev B 'Detailed Landscape Proposals'. However for the extent of the proposed planting (shown on the above drawing) to be sufficient some high canopy native trees (Ash/Oak) should be included in the plant mix. Subject to the addition of conditions to ensure suitable landscaping and mitigation measures, there are unlikely to be any significant negative impacts on the Countryside Area.

Natural England Further comments awaited with regards to agreeing with the findings of the HRA and confirmation that the LEMP provides sufficient information.

Environment Agency No objection.

Highways Provided that the applicant cuts back the hedge and overgrowth to achieve 120m visibility and remove proposed planting which would interfere with the visibility splay highways have no objection. The applicant is submitting a revised plan

to indicate this.

Community Safety Awaiting Comments.

RSPB As a result of the submission of additional information including a LEMP and light level; which provide for improvements to landscaping and avoid increased light levels to bat foraging routes, the RSPB do not object to the proposal subject to suitable conditions.

Drainage No objection however a pre-commencement condition requiring details of impermeability testing in accordance with BRE365 and detailed design for the soakaway to cater for critical 1 in 100 year storm event plus an allowance for climate change.

SWW No objection.

Summary Of Representations

None.

Relevant Planning History

- DE/2013/0416 Proposed new (relocated) touring caravan area to provide for 42 touring pitches with a facilities building – a positive officer response was given to this enquiry - 10.01.2014.
- P/2012/0398 Application to vary condition 2 attached to planning application P/2004/1127 and condition 2 attached to planning application p/2007/0844 to extend the holiday season to 12 month, year round use – approved 01.06.2012.
- ZP/2011/0132 Relocation of touring caravan area – approved 23.05.2011
- P/2007/0844 Variation of Condition (Ref Application Number P/2004/1127/PA) to allow static caravans/lodges to be used for holiday purposes and not for occupiers residence – approved 30.07.2007.

Key Issues/Material Considerations

The key issues to consider in relation to this application are a) impact on tourism, b) the visual impact that the proposal would have on the landscape character of the area that is designated as countryside zone, and AGLV and c) the ecological impact on the Greater Horseshoe bats foraging and flight paths.

Tourism

Local Plan policy TUS (Tourism Strategy) states that 'Torbay's tourism industry will be developed in a sustainable and competitive manner having regard to environmental resources, through the retention of existing attractions; the investment in new facilities; and by the sensitive development of Torbay's heritage as a tourism asset.'

The proposal will provide improved “5 star” pitch facilities providing valuable additional tourist accommodation for Torbay with likely spin offs of increasing visitor numbers to the area and in turn investing in the local economy. The applicant has stated that the off-site spend into the local economy from the 42 touring caravans at Devon Hills Holiday Village would be in the region of £122,000 per annum. It is therefore considered that the proposal adheres to policy TUS and helps deliver Torbay’s Tourism Strategy- Turning the Tide.

The criteria in policy TU9 'Refurbishment and development of new holiday centres and parks' stipulates that 'proposals for new holiday parks, chalet, caravan and camping sites, or schemes for the refurbishment and upgrading of existing facilities will be permitted, provided that:

- (1) the development does not have an adverse impact on the landscape conservation, nature conservation and agricultural characteristics of the area or involve the loss of best and most versatile agricultural land;
- (2) the development is acceptable in terms of transportation, access and safety considerations; and
- (3) the proposal does not adversely affect the amenities of any adjoining residential areas.

The proposal is deemed to meet these criteria which will now be discussed in more detail.

Landscape

Policy L4 in the Torbay Local Plan 1995-2011 relates to development in the Countryside Zone. This policy permits development of tourist facilities appropriate to the rural setting within the Countryside Zone providing that the rural character would not be adversely affected and development is carried out to minimise any harm to the environment. Concomitantly paragraph 28 of the NPPF supports sustainable rural tourism which respects the character of the countryside. The proposal includes a significant level of new planting on the site. The Urban Design officer has confirmed that, subject to appropriate conditions relating to the landscaping scheme, the proposal would be suitably screened and would not cause detriment to the rural setting of the Countryside Zone.

Policy L2 relates to Areas of Great Landscape Value (AGLV) and permits development which maintains or enhances the special landscape character of the area. Given the comments from the Urban Design Officer and the nature of the proposal it is considered that the special landscape character of the area will be maintained and as such meets the requirements of this policy.

Environmental/Ecological Issue

As the site is within the sustenance zone and strategic flyway for the Berry Head Greater Horseshoe Bat roost protected by the Berry Head element of the South Hams Special Area of Conservation (SAC) the applicant has submitted surveys including;

landscaping, lighting for bats, a phase 1 habitat assessment, a bat mitigation plan and a Landscape and Ecological Management Plan (LEMP). These indicate that the proposal would not have a significant environmental impact and provide recommended mitigation.

Natural England have identified disturbance from light spill to be a key issue with the proposals for the touring caravan park. In the ecological survey submitted with the application broad recommendations to avoid light impacts on greater horseshoe bats are provided. It is stated that "It is important that no lighting is positioned on or adjacent to linear habitats such as hedgebanks and the development should be designed so as not to alter the light levels in the immediate vicinity of the boundary features". Any lighting scheme on the site will need to be agreed by the Council to meet this objective. The Council's ecological consultant has recommended that a condition be imposed requiring the submission of a detailed lighting assessment that is capable of demonstrating that there will be no light spill greater than 0.5 lux on any boundary features.

The RSPB have confirmed that in their opinion the proposed light levels will not affect the bat foraging routes and provided the measures in these reports are ensured via conditions, raise no objection.

A Habitat Regulation Assessment has also been undertaken on the site. The result of this was that the proposal would not have a Likely Significant Effect on the integrity of the South Hams Greater Horseshoe Bat SAC and provides advice on suitable mitigation and conditions regarding lighting details.

The proposal has been subject to an EIA screening, to determine whether the development is likely to have significant effects on the environment. The conclusion of the screening was that the proposal is not deemed to have a significant ecological or visual impact. Therefore an EIA is not required.

The arboricultural officer has raised concerns with regards to the proximity of pitches 1-3 and 7-12 to overhanging trees and the issues which may result from this. The applicant has advised that these pitched can be moved 3-4 metres to overcome this issue and a revised plan is awaited to confirm this.

Highways

Highways have confirmed that they have no objection to the proposal provided that a visibility splay of 120 metres can be achieved. The applicant has confirmed that a plan to demonstrate this is to be submitted.

Amenity

The proposal will have limited if any impact on residential amenity due to the nature of the proposal and the fact that the nearest residential properties are some 100 metres away

Holiday use restrictions

The applicant states that the pitches will be in operation between 1st March and 31st October each year. A condition ensuring that caravans are located on the pitches in line with these dates and are to be used for a holiday use only are considered appropriate in order to guarantee the caravans are not used for residential purposes.

S106

Not applicable to this application given its nature as holiday makers will require to drive their own cars and caravans into the site.

Conclusions

In conclusion, the proposal would not notably harm the landscape character of the area and complies with policies L2, L4, TUS & TU9 of the existing Local Plan and paragraph 28 of the NPPF. The proposed development would not have a likely significant effect (alone or in combination) on the integrity of the South Hams Greater Horseshoe Bat Special Area of Conservation. Providing Natural England's support is received for the HRA and the proposed layout of pitches is revised to move pitch numbers 1 to 3 and 6 to 11 away from the existing Ash trees the proposal is considered to be appropriate for planning approval, subject to conditions.

Condition(s)/Reason(s)

01. The site shall only be occupied by caravans or tents between 1st March and 31st October each year. Reason: In the interests of the amenities of the area and to ensure that the cause of the site is for holiday purposes only. In accordance with the objectives of policies TU9, H13, L2 and L4 of the saved adopted Torbay Local Plan (1995-2011).
02. Use for holiday purposes only and not as a persons sole or main residence.
03. Use for the siting of no more than 42 touring pitches only which shall accord with the approved layout plan.
04. Notwithstanding the submitted landscaping strategy plan (Ref: WI768 1001 Rev B) no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; parking/pitch layout; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (e.g. Drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).Reason: In the interests of visual amenity and landscape character and to accord with policies L2, L4 and TU9 of the saved adopted Torbay Local Plan (1995-2011).

05. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities; implementation programme and maintenance plan.

Reason: In the interests of visual amenity and landscape character and to accord with policies L2, L4 and TU9 of the saved adopted Torbay Local Plan (1995-2011).

06. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the phasing plan required by condition 03 of this consent. The planting within each phase shall be completed during the first available planting and seeding season following the commencement of that same phase, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and to accord with policies L2, L4 and TU9 of the saved adopted Torbay Local Plan (1995-2011).

07. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land: (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. None of the dwellings shall be occupied

until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

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

08. No vegetation clearance that involves the removal of habitats such as scrub or hedges, including bramble patches, shall occur during the bird breeding season (1st March to 30th September).

Reason: In order to avoid damage to any breeding bird or its nest thereby avoiding any potential conflict with The Wildlife and Countryside Act 1981 and policy NC5 of the Saved Adopted Torbay Local Plan (1995 - 2011).

09. No development shall take place until a lighting design strategy has been submitted to and approved in writing by the local planning authority. The strategy shall:
- a) design specifications and location of all artificial lighting to be provided on site;
 - b) provide an evidence-based assessment of the proposed lighting for the development, consisting of a report and accompanying drawings of the site with the levels of predicted illuminance and light spill in and adjacent to the hedgerow boundary features, shown by appropriate isolines;
 - c) provide information to demonstrate that a light spill no higher than 0.5 lux will be achieved against the internal face of the hedges. The lighting and design strategy shall be implemented and maintained in accordance with the approved details.

Reason: To ensure that there are no adverse effects arising from light spill that could otherwise disturb commuting and foraging bats and to comply with policy NC5 of the Saved Adopted Torbay Local Plan (1995 - 2011).

10. Visibility splay provided.
11. No outdoor lighting to be provided on site other than that approved by condition 9.

Informative(s)

01. You are advised that a site licence is required for this development.

Relevant Policies

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Agenda Item 7

Application Number

P/2014/0965

Site Address

Former Royal Garage Site
4-24 Torwood Street
Torquay
Devon
TQ1 1EB

Case Officer

Mrs Helen Addison

Ward

Wellswood

Description

Mixed use development of hotel, 1 No A1 unit, 3 No A3 units, 3 No B1 office use units and 1 No B1 office use or D1 gym use unit at former Royal Garage site, involving the demolition of property Nos. 4-24 Torwood Street, Torquay

Executive Summary/Key Outcomes

This application is a revision of a previous scheme for redevelopment of this town centre site that was granted planning permission under application reference P/2011/0035.

The application is submitted for demolition of all buildings on the site and construction of an eight storey building to be used as;

- 1 x A1 retail unit
- 3 x A3 restaurant units
- 4 x B1 office or alternatively 3 x B1 office and 1 x D1 gym unit
- 131 bedroom hotel

The proposed development has been revised in order to improve its viability. The layout of the building has been simplified so that uses are not split between floors. The height of the frontage to Torwood Street has been increased by 2.3 metres and the previously approved set back to The Terrace at the 7th and 8th floors has been omitted. The provision of a new footpath linking Torwood Street to the Terrace has been deleted to increase the size of the building and remove the need to create a facade to the side of the building. The design of the Torwood Street elevation has been revised.

The Design Review Panel has supported the principle of the revised scheme. English Heritage objected to the originally submitted plans on the basis that the development failed to respond to the streetscape in Torwood Street, and consequently would result in harm to the Torquay Harbour Conservation Area. Revised drawings were submitted which included deletion of 4 hotel bedrooms to address English Heritage requirements. In response to these revisions English Heritage has advised that the revised scheme

does not sufficiently address the prominence of the third floor, which has a looming quality over the streetscape. It is suggested that the scheme would further benefit from setting the central section of the development (mainly the third floor) back into the site, providing it with a recessive quality and a greater sense of the terraced character of the conservation area. Similarly it is also noted that on the Torwood Street elevation the upper storeys of the building no longer have a recessive quality and therefore EH again have concerns about the potential looming quality to the building. It is suggested that further modification to the design could be undertaken to help reduce the overall impact.

The scale of the proposed development would result in some harm to the character and appearance of the Torquay Harbour Conservation Area. The NPPF advises that strong countervailing factors should be identified before harm to a heritage asset can be overridden. Any harm or loss to a heritage asset should require clear and convincing justification.

The proposed development would deliver significant investment in Torbay. It would provide a minimum of 2450m² of new office floor space and a 131 bedroom hotel, both of which would create new employment opportunities. This scale of investment would present a significant economic regeneration opportunity within the town centre. The principle of redevelopment of the site would be consistent with the saved adopted Torbay Local Plan 1995-2011. The development has been estimated by the applicant as providing between 300-410 FTEs, £14M construction investment, £40M of total economic activity and a minimum of £2.8M hotel visitor spend.

The applicant has advised that further modifications to the proposed development as recommended by English Heritage would make the scheme unviable. In order to be confident that the proposal would provide a level of public benefit that would over-ride the effect of the development on the Torquay Harbour Conservation Area, for example through providing a significant regeneration opportunity within a prominent location in the town centre and redevelopment of a site that has been considered an eyesore for many years, the applicant has been asked to submit a viability assessment to justify that any further modification would impact the viability of the scheme.

The impact of the development on the Torquay Harbour Conservation Area has to be weighed against the investment and regeneration opportunity that this proposal presents. There is a fine balance in this consideration, particularly in the light of English Heritage's comments. Having considered the scale of investment that would be generated by this scheme and the prominent location of the site within the town centre, on the basis that the Design Review Panel supported the principle of the current proposal, providing the viability assessment demonstrates that it would not be viable to modify the scheme it is considered that the substantial public benefits in this case would be sufficient to override the impact of the proposal on the heritage assets.

Recommendation

Subject to the submission of a viability assessment that demonstrates the further modifications to the proposal recommended by English Heritage would render it

unviable:

Conditional approval; subject to the signing of a s106 legal agreement in terms acceptable to the Director of Place, within 6 months of the date of this committee or the application be reconsidered in full by the committee, conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

The thirteen week target date for determination of the application is 7th January 2015. The application has been delayed because the design has been revised following an objection to the application from English Heritage and the applicant was requested to submit further information in support of the proposed development.

Update

Members considered the application at their meeting on 12th January 2015, it was deferred in order to report additional information on the relationship of the proposal with the Building Heights Strategy and for the submission of a viability assessment.

The relationship of the proposal with the Building Heights Strategy

Members will be aware that the Building Heights Strategy was commissioned by the TDA. It should be noted that the report carries limited weight as it is an evidence based document supporting the Torbay Local Plan 1995-2011 and does not constitute Council policy.

In the strategy a 'tall building' is defined in the strategy as "any building that is significantly taller than the prevailing height."

Within the document there is a plan which identifies the Town Centre, including Torwood Street as an 'Area of Search' where tall buildings are considered to be appropriate in principle, subject to a set of considerations. It sets out three main objectives for Torquay Town Centre:

- to reinforce the character of fine-grained 3 storey buildings and a varied roofscape
- to promote vibrancy and vitality of the town centre through a flexible approach to building height
- to reinforce Torquay's role as the primary centre in Torbay.

The proposed development has sought to integrate into the fine-grained character of the conservation area, particularly along the Torwood Street frontage. Revisions have been made to the submitted scheme to meet this objective. The building elements do exceed three storeys. In the Strategy it is recommended that an additional storey could be acceptable within this location.

In the Strategy it is noted "there will be occasions when a tall building might be justified

because of the benefits it brings to the community at large, notwithstanding reservations which might apply in relations to its aesthetic or environmental impact on a particular area or view. Examples might include where a tall building will be a talisman for inward investment and regeneration acting as a catalyst for revitalising and rejuvenating a place”.

The acceptability of a tall building within a certain area turns on a number of key considerations such as the impact on views, whether the development breaches the sky line and how it responds to the topography of the area. The view of Torquay harbour is analysed within the strategy. It refers to the backdrop of the view being tree covered slopes loosely developed with medium scale development. It identifies that this view is sensitive to tall buildings which could harm the balance of the view, particularly in the foregrounds, on hill tops or where it would break the sky line. The design of the proposal has come forward as a response to similar analysis of how the site fits within its context. This has resulted in the breaking up of the building into different elements which would reduce the height of the proposal when viewed from key vantage points around the harbour area.

The criteria for assessing a tall building are similar to those which have been used in assessing the proposal. These are its location, conservation, views, topography, design, public realm, streetscape, microclimate, amenity, land use and sustainability.

In summary, the Building Heights Strategy does not constitute Council Policy and therefore has limited weight. The application site is within the area of search, where tall buildings can have acknowledged benefits by way of regeneration and vitality. The strategy permits tall buildings where they meet the criteria set out above.

Viability Assessment

The submission of the viability assessment is awaited. The conclusions of the assessment will be reported to Members at their meeting, and if possible, circulated to Members before the meeting.

Site Details

The site comprises the frontage buildings of 4 – 24 Torwood Street and includes the land to the rear of these buildings, which has until recently been used as a car park. It is bound to the south by Torwood Street and to the north by a concrete faced rock wall of approximately 10m in height beyond which is The Terrace at a notably higher level. To the west of the site is a public right of way which provides pedestrian access between the two roads. The car park originally provided stabling and garaging for the former Royal Hotel which is to the west of the application site. There is an existing vehicular access onto Torwood Street between building numbers 16 and 22. None of the former stables and garages remain on the site. The site area is approximately 0.23ha.

In terms of constraints; the site is within the Torquay Harbour Conservation Area. The Torquay Harbour Area Character Appraisal identifies most of the buildings on the site as key buildings within the conservation area with largely unspoilt frontages. Within the

Local Plan the frontage buildings are identified as being within a Secondary Shopping Frontage. Most of the site is allocated for mixed use development in the Torbay Local Plan 1995-2011 and is subject to policies S2 TM4, E1.10 and S5.2 which promote mixed use development. This includes retail, leisure, employment and residential uses. Torwood Street is shown as being part of the major road network.

The buildings on the site have been closed and boarded up for several years. The most recent uses of the buildings were referred to under the previous planning application reference P/2011/0035MPA as follows:

4 Torwood Street	–	“Tictocs’n’rocks” – Retail
6 Torwood Street	–	“Devon Kebab House” – Takeaway
8 Torwood Street	–	“Trents” – Bar
10 Torwood Street	–	“Legends” – Restaurant
12–16 Torwood Street	–	“Brights of Nettlebed” – Retail
22 Torwood Street	–	“Wild Jacks” – Takeaway
24 Torwood Street	–	“The Gold Shop” - Retail

The site is in a prominent location in the town centre, and is located close to the harbour and the clock tower which is a notable land mark. The surrounding area is largely in commercial use with a number of shops, cafes, takeaways, night clubs and offices in the area. There are also residential flats within the vicinity of the site, some of the closest being to the west and to the south at the former Queens Hotel. The Terrace car park is to the north of the site. The site is within an area that has a vibrant night time economy due to the proximity to nightclubs and takeaways.

The site is visible in long distance views from the harbour, Torwood Street to the east and west and from Montpellier Road to the north.

Detailed Proposals

This application is principally a revision of a scheme that has been previously been approved by the Council under application references P/2009/0690 and P/2011/0035.

The application is for demolition of all the existing buildings on the site that comprises numbers 4 to 24 Torwood Street, and subsequent redevelopment. The proposed redevelopment would comprise construction of an eight storey building (the 6th to 8th floors would be set back towards The Terrace) that would be used for:

- 3 x A3 restaurant units
- 1 x A1 retail unit
- 3 x office units
- 1 x office unit with an alternative possible use as a gym
- 131 bedroom hotel

Access to the proposed building would be from both Torwood Street and The Terrace. No off street car parking provision would be provided in the development.

Since the application was submitted the design has been revised in the light of the DRP comments and the objection from English Heritage. As part of this revision four hotel bedrooms have been deleted from the proposal to reduce the height of the building fronting Torwood Street. The elevation treatment to Torwood Street, The Terrace and the west elevation have all been revised. The revised proposals were readvertised on 11th December.

A summary of the mix of uses in the previous and proposed application is:

<u>P/2009/0690</u>	<u>P/2011/0035</u>	<u>P/2014/0965</u>
12 flats	14 flats	
80 bedroom hotel	113 bedroom hotel	131 bedroom hotel
1 x retail unit	1 x retail unit	1 x retail unit
3 x restaurant	3 x restaurant	3 x restaurant
6 screen cinema	office	3 x offices
	Gym	1 x office/gym

In comparison with the most recent application that was granted planning permission in 2012 (P/2011/0035) the main changes in this proposal are;

- the number of hotel bedrooms has increased
- the residential units and on site parking have been deleted
- the office floor space has been increased from 294m² to 4690m²
- the footpath proposed between Torwood Street and The Terrace has been deleted.

These revisions have resulted in proposed changes to the external appearance of the building, notably an increase in the height of the southern elevation facing Torwood Street by 2.3 metres and a reduction in the set back of the upper floors facing The Terrace. There have also been revisions to the design of the building.

In detail the application would comprise the following development;

Ground floor level – Three A3 (restaurants and cafes) units with floor areas of 273m², 336m² and 247m² and one A1 (shops) unit with a floor area of 360m². An entrance to the hotel and offices above would be provided at this level comprising a staircase and lift.

First floor level – An office with a floor area of 1024 m² and a second office that that applicant has also requested an alternative consent for this unit as a gym, with a floor area of 403m². A number of plant units, an office lobby and toilets are also proposed. There would be a fire escape to the footpath on the western side of the building.

Second floor level – Two offices are proposed with floor areas of 1115m² and 305m². They would be accessed either from the entrance onto Torwood Street or from The Terrace. An office lobby, toilets and hotel plant rooms are also proposed.

Third floor level – The main entrance to the hotel and offices would be from The Terrace at this level. This floor of the hotel would provide the public facilities; reception, meeting and working areas, breakfast area, toilets and delivery entrance. There would be a number of bedrooms laid out either side of an internal corridor. Within the centre of the building a courtyard would be formed with rooflights to the offices below. It is not proposed that the courtyard area would be used by hotel guests.

Fourth floor level – The building line to Torwood Street would be recessed at this level. Hotel rooms on either side of an internal corridor around the central courtyard would be provided. A fitness room and hotel plant is also proposed.

Fifth floor level – From this floor upwards the accommodation is only provided within the rear section of the building which faces onto the terrace. Hotel bedrooms, circulation space and a linen store are proposed.

Sixth floor level – Hotel bedrooms, circulation space and a linen store are proposed.

Seventh floor level – Hotel bedrooms, circulation space, a linen store and a plant room are proposed.

Roof level – Solar panels, a lift over run and a service riser are proposed.

The proposed development would comprise a three storey elevation facing Torwood Street with a recessed fourth storey, and the fifth to seventh storeys further recessed to the rear of the site. In the design and access statement it is advised that the elevation treatment to Torwood Street would comprise “a contemporary interpretation of local building types, and it is proposed their cleaner detailing is lifted through the choice of high quality finishes. The elevation reflects the building uses- the larger offices with their tall ceiling heights and need for good levels of daylight – create a scale of façade that reflects the grand Scala building opposite. This grandeur is further enforced by the use of Permian sandstone – a locally distinctive material seen elsewhere on the harbourside”.

The design of the building facing Torwood Street would consist of a larger central element finished in sandstone, with a glazed link to rendered end piece on the east side of the building and a contrasting end piece on the west side finished in ball clay brickwork. The design and access statement advises that “this articulation helps reduce the apparent scale of the proposals - acknowledging the finer grain of development further east along Torwood Street”.

It is intended that the hotel bedrooms which are set back from Torwood Street and would be visible above the commercial building would be treated as roofscape. The third floor would be finished in an aluminium curtain walling system with glazed and infill spandrel panels.

The height of the elevation to Torwood Street would be 2.3 metres higher than the

previous building approved under application reference P/2011/0035MPA.

The north elevation fronting Torwood Street would have an acrylic rendered façade with a roof over. There would be vertically proportioned windows with inset sandstone panels. The agent has advised that the intention is to respond to the materiality of the adjacent Terrace and to emphasis vertical proportions. Setbacks are proposed at either end of the third floor to create the impression of an inset roof structure.

In the south elevation facing The Terrace under the previous consent (P/2011/0035) the seventh floor of the building was set back. Under the current proposal it would be on the same building line as the floors below. Although it should be noted that the ends of the building would be inset. It is advised that this is because a set back would result in inefficiencies on the hotel requirements.

There is no car parking proposed on the application site. The site is adjacent to the Terrace car park and the applicant advises that parking will be provided in this car park.

It will be seen from the relevant planning history below that this is the third scheme for redevelopment of the site submitted since 2010. In the Design and Access statement it is advised that the previously approved scheme (P/2011/0035 refers) was not implemented principally due to viability issues arising from changing market conditions. This fresh application involves further use and design requirements that are needed to achieve viability.

In support of the application the following technical reports have been submitted; transportation assessment, travel plan, archaeological assessment, environmental noise survey, feasibility report (structural options), flood risk assessment, geotechnical and environmental report and planning statement, statement of community involvement, design and access statement, settings assessment, visual assessment, and scheme appraisal (viability)

Summary Of Consultation Responses

South West Water No objection subject to the development being undertaken in accordance with the details submitted within the flood risk assessment.

Senior Historic Environment Officer (a) advises a robust statement of justification is required to address the demolition of all the frontage buildings which are recognised as key buildings in the Torquay Harbour Conservation Area Appraisal, and (b) in respect of the archaeological potential of the site an evaluation of those areas not known to be terraced or cellared ought to be undertaken in advance of determination.

Environment Agency No objection subject to the need for further investigation and assessment of the contamination identified in the submitted Phase 1 Desk Study and Phase 2 Geotechnical and Environmental Investigation report. Advises that this can be carried out post demolition. Recommends two conditions EA to address contamination. With regard to flood risk assessment recommends the EA best practice guidance on

surface water management.

Highways No objection provided the following issues relating to proposed loading bays and access arrangements on the highway can be overcome by the applicant:

The Terrace- the proposal for both a loading bay and a lay-by is not acceptable. The lay-by being designated as a loading bay to assume both functions would be acceptable. A traffic regulation order for both sides of the Terrace between Montpellier Road and Torwood Street will be required to ensure against unauthorised parking/loading.

- Pedestrian crossing access must be facilitated on the desire line between the public right of way adjacent to the site and the harbour car park through provision of crossing points built out across Montpellier Road. Tactile paving and dropped curves will be required.
- Tracking must be provided for 70 seat coaches and refuse vehicles around all corners of the one way system to show it is achievable.

Torwood Street - 4 metered parking spaces must be provided along with any loading bay that should be located at the furthest point up Torwood Street in front of the proposed site. This loading bay should be designated as coach parking between 10.00 and 20.00 and loading at other times, all days.

- No footway narrowing is acceptable.
- The cycle stands should be relocated to the shop side of the road and integrated into an improved street scene.
- A similar street scene to that in Higher Union street is required and in keeping with Victoria Parade , including granite paving on the footway all adjacent to the site and down to the existing zebra crossing.

Public Right of Way connecting Torwood Street to the Terrace – notes the proposal includes improved lighting. This route must be upgraded with CCTV at either end, new surfacing in keeping with the granite paving referred to above and visual attraction improvement.

Harbour Car Park Contrary to the Transport Assessment this car park does reach capacity at peak summer periods. VMS signing will need to be upgraded and positioned to ensure all traffic receives quality information sufficiently in advance to ensure they can find appropriate parking spaces.

Traffic Regulation Orders Will be required for all loading/coach bays and this will be the subject to the usual form of public and Member consultation. There is no certainty that these can be provided until the due process has been completed, typically 17 weeks. The cost of the TRO and associated works will be in the region of £4,650.

S106- requests a contribution of £182,166

Travel Plan Implementation by individual occupiers as a requirement of lease terms must be secured by condition.

Police Architectural Liaison Officer It is disappointing that no reference to designing out crime or whether any crime prevention methods have been considered is made in the design and access statement. Advises that one entrance into the hotel is preferred, if this is not possible it is imperative there will be some form of strict access and control system to prevent non residents and those with criminal intent being able to access staff areas, the fitness centre, offices or corridors where guest bedrooms are located. There should be clear signage to the hotel reception from all parts of the hotel. All pedestrian accesses will need to be well defined and overlooked.

Environmental Health Officer Requires the kitchen extraction equipment to be designed in the appropriate manner. Suggests a condition should be imposed to address this issue.

English Heritage We are disappointed that the current application has failed to address the distinct character and appearance of the conservation area, in terms of scale and massing and the treatment of the Torwood street façade. We have identified this will cause significant harm to the conservation area and English Heritage is unable to support the proposal. Raises concerns about (a) the height of the building and considers it will create an overly prominent element within the distinct horizontal emphasis of the town, and (b) the treatment of the Torwood Street facade due to the lack of response to the vertical rhythm of the streetscape.

Drainage Requires details of the surface water drainage system. Recommends the developer includes flood resilience measures within the development to a level of 5.3m. A flood management plan should be produced before occupation of the buildings.

Senior Engineer No comments to make.

Summary Of Representations

A number of objections to the development have been received. The following points have been raised:

- This area retains traditional Victorian buildings. It is a key part of the town and should be preserved not destroyed.
- This type of development is totally unsympathetic and unsuitable in every way.
- It is too big, shows no respect for the local vernacular and will destroy the street scene.
- This does set the precedence for the ongoing loss of key buildings in Torquay.
- The new building looks great but should not be built here among other historic buildings.
- The building looks out of place and so more time should be spent matching it and

- bedding it in with the surrounding buildings.
- My reservation is towards the overall height of the development
 - The plans show an unattractive utilitarian building, incongruous in size and appearance to its surroundings
 - I would hope for a more sympathetic development on a smaller scale and designed to work with rather than against the natural landscape of this beautiful bay.
 - From the harbour people will see a huge building very high, very long blocking most of the hillside.
 - The size and scale of this building is completely inappropriate for the area being too overbearing and far too tall.
 - The latest planning submission shows increased height and hotel bedroom windows which look directly into my windows including my bedroom.
 - The increased height of the building will cause me loss of light, together with loss of privacy and also a loss of approximately 1/3 of the property value.
 - the previous permissions cannot carry any weight in the decision making process given the applicants admission that the schemes are unviable.
 - The applicant should submit a viability study for this site in the context of explaining that it is available and deliverable.
 - There are significant changes to the scheme notably (a) an increase in the scale of development on the site through an increase in the height of the buildings fronting Torwood street and (b) through the loss of the passageway running from The Terrace to Torwood Street on the eastern side of the site.
 - In reviewing the documents submitted with the application we have noted some significant deficiencies
 - Previous approvals do not mean there is an automatic assumption that permission should now be granted for the alternative scheme.
 - It is noted that under Policy S2 TM4 it states the site "is allocated primarily for retail purposes".
 - The scheme should be refused as being contrary to the Development Plan.
 - The scheme has no car parking, this is a fundamental problem.
 - The loss of car parking offered by the site in its present state plus the proposed car parking provision to meet the needs of the development has not been adequately addressed in the Transport Assessment.
 - The proposed development will now be physically attached to 26 Torwood street and the scale of the buildings are such that they will dwarf this property.
 - No evidence has been submitted for the loss of the eastern pedestrian link which was a fundamental part of the previous application. No proper justification has been given for its loss.
 - The planning statement does not properly address the range of planning issues.
 - There are concerns with the Transport Statement
 - The Design and Access statement fails to properly address the design issues surrounding the scheme.
 - The scheme gives little attention to its impact on Torwood Street best evidenced by the fact that the principal access to the hotel is to the Terrace.
 - It is not clear from the application form as a whole what is being applied for.

Letters in support received which raise the following points:

- The buildings currently there are not the most attractive Victorian buildings.
- It will regenerate a run down part of Torquay in the same way that the successful Abbey Sands development has.
- Torquay needs this and other quality developments to happen if we are to compete against other coastal locations
- The new development will provide excellent new facilities for local residents as well as those visiting Torquay.
- It will remove the terrible eyesore of derelict and crumbling buildings
- Investment in Torquay town centre should be encouraged and this would be an excellent start.
- The appearance of that part of Torwood street at present is depressing and embarrassing for a major tourist resort.
- The regenerative effect of a suitable, mixed use development has the potential to give a boost to local businesses particularly in this part of Torquay.
- It will provide new jobs as well as adding to the overall improvement in that area of Torbay.

These representations have been sent electronically for Members consideration.

Relevant Planning History

Various applications have been submitted in relation to the existing buildings on site including changes of use, minor alterations including shop-front alterations and signage.

Various applications were submitted in the 1980s as follows:

P/1983/1792	Retail unit/multi-storey car park. Refused 4/6/1984
P/1984/3237	84 Sheltered flats and wardens flat. Refused 29/1/1985
P/1985/0361	49 flats. Refused 2/4/1985. Appeal dismissed 5/9/1985
P/1986/2379	Erection of 43 sheltered flats plus wardens accommodation, offices and retail/storage space. Approved 25/9/1987

Subsequently an application for a certificate of lawfulness was submitted in 2005 in an attempt to prove that work had commenced on the scheme which was approved in 1987, thereby allowing the work to continue. The certificate of lawfulness application was refused on 6/3/2006 and subsequently dismissed at appeal on 22/08/2007.

P/2009/0689	Demolition Works. Approved 06/07/2010
P/2009/0690	Demolition of 4 – 24 Torwood Street. Redevelopment of site comprising 12 residential apartments with residential parking, 80 bedroom hotel and associated facilities, 6 screen cinema. 1 retail unit and 3 restaurants. Approved 6/1/11
P/2011/0035MPA	Demolition works; formation of mixed use development to form hotel, A3 units, 2 external purpose units (D2 use for fitness centre

and B1 use for office suite) and 14 apartments with vehicular and pedestrian access, approved 11/5/12

P/2011/0036CA Demolition works granted 12/5/11

Key Issues/Material Considerations

The main issues that are relevant to the determination of this application are the principle of the proposed development and planning policy, design, highways and transport, heritage, economy/regeneration and S106.

Principle and Planning Policy -

In the saved adopted Torbay Local Plan 1995-2011 the majority of the site is allocated for employment and retail uses. Numbers 24 and 24a Torwood street are not subject of this allocation.

The relevant policies in the saved adopted Torbay Local Plan 1995-2011 relating to the principle of development on the site are as follows;

Policy E1.10 is applicable to the site which proposes the development of the site for employment purposes. It is stated in this Policy that “proposals for the use of allocated sites for non employment uses will be determined on the basis of Policy E6 (Retention of employment land and buildings)”.

The site is also subject to Policy S5.2 which states that the site is proposed for new retail development. In the explanation to the Policy it is stated “a mixed retail and leisure scheme would contribute to the wider improvement of the harbour area”. Further details are contained in TM4 set out in Policy S2. The explanation to this Policy states the site is “allocated primarily for retail purposes. Any scheme should be well- related to the Secondary shopping frontage in Torwood Street. ...levels would allow significant use of upper floors for retail use, providing access to the Terrace. The harbour side location means that the site would also provide opportunities for the introduction of leisure uses. An element of office use would also be acceptable, particularly on upper level”.

The National Planning Policy Framework (NPPF) sets out the government’s planning policies and how these are expected to be applied. These policies are material to the determination of the application. At the heart of the NPPF is the ‘presumption in favour of sustainable development’ which is described as a golden thread running through decision taking. Three dimensions to sustainable development are identified which are economic, social and environmental. To achieve sustainable these objectives should be sought jointly and simultaneously. These three dimensions provide a useful framework against which to consider this proposal.

The policies in the NPPF that are relevant to the principle of the development on this site are:

Para.18 sets out the Government policy on building a strong, competitive economy. It advises the “Government is committed to securing economic growth in order to create jobs and prosperity”.

At para.19 it is stated:

“significant weight should be placed on the need to support economic growth through the planning system”

Para. 21 states:

“Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances”

Para. 22 is relevant to the proposal and states:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”.

Para. 23 states:

“planning policies should be positive, promote competitive town centre environments”

It continues to advise local planning authorities should:

“recognise town centres as the heart of their communities and pursue policies to support their viability and vitality”.

The NPPF contains very little guidance relating to tourism with the only reference at para.28 which relates to the promotion of rural tourism which is not applicable in this case. In the glossary there is a list of main town centre uses which includes hotel facilities.

In March 2011, the Government published a tourism strategy for the UK which underlines the importance of tourism to the economy and to post-recession recovery, across the UK. The strategy acknowledges (at para 2.1) the importance of tourism across the UK, stating “tourism is an often underestimated but tremendously important sector of the UK's economy”

The NPPF was published on 27th March 2012 and is more up to date than the Torbay Local Plan 1995-2011. Where there is inconsistency between policies in the NPPF and the Torbay Local Plan 1995-2011 the policies in the NPPF carry greater weight in the decision making process.

The principle of redevelopment of the site would be consistent with Policies E1, S5 and

TM4 in the Torbay Local Plan 1995-2011. These policies particularly promote use of the site for retail and employment purposes. Policy TM4 also recognises that the site would be appropriate in part for leisure use. The proposed development would deliver retail and restaurant uses at ground floor level which are appropriate uses within a secondary shopping centre and would contribute to the vitality and viability of the town centre. 2450m² of employment floor space will be provided with a further 400m² that would be used for employment or as a gym. This is consistent with Policy E1 in the Torbay Local Plan and through provision of new employment floorspace would support the creation of new jobs. Finally the provision of a hotel on the site would generate new employment opportunities on the site and would support the tourism industry which is identified in the explanation to Policy TUS in the Torbay Local Plan 1995-2011 as the “cornerstone of the economy of Torbay”.

A representation has been received suggesting that the proposed development does not accord with the Torbay Local Plan, specifically because the proposed uses are not consistent with the explanation to Policy S5.2 in the Torbay Local Plan 1995-2011, which refers to retail uses on the upper floors of the development. It is not accepted that the proposed development can be classed as being contrary to the Torbay Local Plan 1995-2011. The proposal would be consistent with Policies E1.10, S2, S5.2 and TM4 which promote mixed use development of the site. The explanation to Policy 5.2 is not intended to provide a definite prescription of the uses in the development of the site but rather to provide guidance on what may be appropriate. The site is within the secondary shopping area rather than the primary shopping area therefore the retail importance of the location is lower. In addition guidance in the NPPF makes it clear that Local Authorities should take a flexible approach to development within town centres in order to encourage vitality and viability.

Design and Visual Appearance -

Para. 62 of the NPPF advises that Local Planning Authorities should have local design review arrangements in place, and that in assessing applications they should have regard to the recommendations from the design review panel. Therefore in determining this application weight should be attached to the recommendations of the Design Review Panel (DRP). A copy of their report is included with the representations for this application.

In principle the DRP are supportive of the proposed scheme. They note that there is much to commend in the handling of this difficult site. They advise that they have some concerns about the architectural expression but these are not considered to be major obstacles. The main points raised by the DRP are as follows:

- We are pleased to see that the key urban design principles of the development have been maintained and remain sound. We are encouraged by the greater simplicity now achieved.
- We do not think the loss of the new public footpath which was to connect Torwood Street to the Terrace presents a major deficit to the network of pedestrian routes in this part of Torquay.

- An upgrade of the existing footpath could form part of a Section 106 agreement
- Arrangements for the use of public parking spaces need to be confirmed with the Council
- Consideration should be given of how the entrance door to the hotel and offices on Torwood Street might be signalled in the architectural expression.
- The treatment of the ground floor elevation of the A1 unit should be reconsidered in terms of how it anchors the elevation to the street
- At third floor level the western corner of the building should follow the alignment of the hotel element of the development
- A lighter brighter approach should be adopted for the facade materials of the hotel.
- Alternative strategies for detailing of the Torwood Street elevation would be worth pursuing to restore some of the visual interest of the earlier scheme.
- Consideration should be given to utilising the internal court.
- Large scale details should be submitted prior to the commencement of development.

English Heritage has raised an objection to the proposal as submitted. It considers that the proposal has failed to address the distinct character and appearance of the conservation area, in terms of scale and massing and the treatment of the Torwood Street facade. Concern is expressed about the increase in height of the building and the treatment of the facade to Torwood Street. Particularly identified is a lack of response to the vertical rhythm of the streetscape that helps to break up the facade and provide interest.

The above comments have necessitated the applicant to review and revise the design of the proposed development. A number of the requirements of the DRP have been addressed in the revised plans, including detailing of the building to Torwood Street and the Terrace. In response to the issue raised by English Heritage the detailing of the elevation to Torwood Street has been revised to provide an increased vertical emphasis, through a reduction in the central sandstone element of the building and introduction of a contrasting end element finished in ball clay brickwork.

In comparison with the previously approved scheme on the site there are a number of common elements in the design of the proposed building. Notably the sandstone central element in the Torwood Street elevation and the rendered elevation to the Terrace with inset glazed panels and sandstone detailing. The 'glazed box' treatment to the eastern end of the Torwood Street elevation has been omitted from the current proposal and replaced by a rendered elevation. In design terms this would have some impact on the quality of the proposal, but it is noted that the DRP were overall supportive of the design strategy of the proposed development.

The detailing of the scheme will be essential to its quality and success. It will be important that the windows and panel details are recessed in order to provide visual relief and clarity to the elevations. This was a point made by the DRP. A condition requiring detailed drawings to be submitted will be needed to address this.

A key issue to be considered is that this application includes an increase in the height of the elevation facing Torwood Street by 2.3 metres. In the planning statement it is advised that this is due to improvements in the efficiency of hotel bedrooms. The applicant has attempted to address this increase in height through the design of the building at third floor level. The architectural expression is recessive with cut backs at both the eastern and western ends of the building to reduce the visual impact. English Heritage were of the opinion that this approach would not go far enough in relating to the existing setting of the site, in particular to the way in which the existing buildings are stepped up Torwood Street to reflect the topography. English Heritage advised that the design of the proposed building needed further consideration to address this issue, particularly at the western end of the building (which is at the lower end of Torwood Street and would be particularly visible in views from the Harbour along Torwood Street). This has prompted a further revision of the design whereby four bedrooms have been deleted from the hotel resulting in a cut back of the third floor at the western end of the building. This revision introduces a stepped element to the building and introduces articulation that reflects the character of the townscape in the area.

The second key change in the design of the current scheme is the deletion of a new footpath link between Torwood Street and The Terrace on the eastern side of the building. This change is for commercial reasons as it would increase the floorspace within the building, and would reduce the cost of the development. The owner of the adjoining property has submitted an objection to the deletion of the footpath.

The provision of a new footpath link would have provided a visual break between the proposed development and the adjoining property and it would have also improved pedestrian access between Torwood Street and the Terrace as the existing footpath to the west of the site is unattractive due to its proximity to servicing areas of adjoining buildings and having a bend which means that there is no direct line of site. Due to the significant change in levels the new footpath would have necessitated the provision of steps and it would therefore have only been accessible for the able bodied.

There are three considerations relating to the deletion of the footpath from the proposal. These are (a) accessibility and permeability. As referred to above there is an existing footpath link adjacent to the western boundary of the site. Consequently there is already a link between Torwood Street and the Terrace, and it would be difficult to justify the principle of requiring a second footpath in such close proximity to the existing one in terms of purely permeability. (b) quality of the footpath to the western boundary. The existing footpath is unattractive and likely to be underused for the reasons given above. As part of this proposal the applicant has been requested to carry out improvements to the footpath. Improved signage, lighting, surfacing and introduction of cctv would increase its quality and therefore likely levels of use. If all these measures were carried out it would be difficult to substantiate a need for an additional footpath within the application site. (c) effect on trading of adjoining property. The proposed development would increase footfall in the area due to increased activity that would result from the new uses on the site. The offices and hotel would have direct access to Torwood Street. It is difficult to argue that the loss of the footpath on the eastern side of

the site would reduce the movement of users of the premises onto Torwood street to such an extent that it would be harmful to the vitality of the immediate surrounding area. Therefore on balance it is considered that the deletion of the footpath link from the proposal would be acceptable.

There are two additional relevant points worth noting in relation to deletion of the footpath; firstly the DRP were of the opinion that provision of a new footpath as part of the development was not needed and secondly the Council's recently published draft master plan (for consultation) for Torquay Town Centre includes an aim of strengthening the route between the Terrace car park and the harbour through redevelopment potential of the existing Debenhams building.

Highways -

In support of the application a Transport Assessment and travel plan have been submitted. No off street parking provision is proposed in the application. It is noted that under the previous proposal (P/2011/0035) 14 parking spaces were approved to serve the residential units proposed. As there is no residential development included in the current scheme the car parking provision has been deleted. Not providing on site parking within the development provides an opportunity to make effective use of this town centre site and to use the floor space for commercial uses instead.

Pedestrian access to the retail and restaurant units would be from Torwood Street. The main entrance to the hotel and offices would be from The Terrace with separate lobbies provided for each use. A secondary pedestrian access to these units with stairs and a lift is proposed from Torwood Street. Servicing would take place from both The Terrace and Torwood Street.

Plans accompanying the Transport Statement propose a loading bay on The Terrace for use by service vehicles to the hotel and office elements of the development.

Servicing for the retail and restaurant uses would be from Torwood Street. A coach and loading bay is proposed along Torwood Street. It is proposed that loading is to be permitted between 6 am and 10 am with coach parking between 10 am and 8pm.

Secure long stay cycle parking would be provided within the hotel, office, retail and restaurant uses for staff who wish to cycle. For staff working in the offices 23 cycle parking spaces would be provided within a dedicated cycle store adjacent to the main office entrance on the Terrace. Five secure cycle parking spaces for hotel staff would be accommodated within the back house area of the hotel adjacent to the proposed delivery entrance for the hotel accessed from The Terrace. A further seven secure cycle parking spaces are to be accommodated at the rear of the retail/restaurant uses accessed from Torwood Street. Short stay cycle parking for a total of six cycles in the form of three Sheffield stands would be provided on the Terrace adjacent to the office entrance. A further three cycle stands for six cycles are proposed on Torwood Street to the eastern side of the development adjacent to the retail unit.

In the Transport Assessment the Harbour car park is identified immediately north of The Terrace. This car park has 533 parking spaces including nine disabled and ten parent and toddler bays. An analysis of parking information is carried out and it is concluded that the car park has spare capacity.

The Council's Senior Transport Planner has raised a number of concerns about the information submitted by the applicant and asked for a number of revisions to the proposal. These are identified in detail above (see consultations section). The applicant has been asked to address these matters. Revised information is awaited and will be reported verbally to Development Management Committee.

Included in an objection to the application is a highways technical note produced by Hydrock who are professional highway consultants. In this objection it is concluded that the submitted Transport Assessment does not provide the Council with a robust evidence base upon which to form a judgement as to the likely merits and effects of the application. A number of points are raised which include the following;

- Unreliable baseline traffic flows, which do not accord with DfT guidance.
- the TA contains no detailed analysis of the causes or possible solutions to pedestrian incidents
- inconsistency on proposed floor space between TA and application form
- the HGV loading bay would be too narrow
- it is unclear how the enforcement of the drop off bay could be achieved
- the measures proposed to improve the existing footpath cannot mitigate against existing issues or overcome the requirement for a more direct, convenient and attractive route that was previously proposed on the eastern side of the development
- The trip generation data that has been used may lead to an underestimation of trips from the office component of the development. The TA does not provide a definitive prediction of the development's trip generation.
- No traffic model outputs have been appended to the TA.
- The loss of Torwood Street parking has not been properly assessed
- Inconsistency with key paragraphs of the NPPF.

In response to this the applicant has submitted an additional highways note.

The further information requested by the Senior Transport Planner is still awaited. The applicant and the Council's Senior Transport Planner have agreed in a meeting that one loading bay will be provided on The Terrace to be used for both loading and for hotel drop off. An informal crossing point on the Terrace would be provided. On Torwood Street subject to appropriate agreement by the Council it is proposed to widen the pavement to create space for outside seating outside the restaurants which would also be intended to enhance the appearance of the area through the provision of street furniture, public art and bike stands. This would mean that the four on street parking spaces adjacent to the site would be lost. A coach parking bay would also be provided on Torwood Street. Traffic Regulation Orders (TRO) would be needed on both The

Terrace and Torwood Street for the proposed changes to the highway. Included in these would be a restriction on loading/stopping on other parts of the Terrace, specifically to deter parking by blue badge holders. The applicant would be required to meet the cost of these through the S106 agreement. It should be noted that there is no certainty that the TROs would be agreed by the Council.

Heritage -

The application site is located within the Torquay Harbour conservation area which is defined as a designated heritage asset in the NPPF. The nearest listed buildings to the site are the Scala building on the opposite side of Torwood Street, the building occupied by Pizza Express to the east of the site, the Clock Tower, The Terrace, and the Unity Church in Montpellier Road to the north east of the site. Listed buildings are also defined as designated heritage assets in the NPPF.

The existing buildings on the site are mainly early 19th century with numbers 22 and 24 dating from the 18th century. All are recognised as key buildings in the Torquay Harbour conservation area, in the conservation area appraisal.

The NPPF contains a strong presumption against granting planning permission for development which will harm heritage assets, requiring particularly strong countervailing factors to be identified before it can be treated as overridden.

Para 131 of the NPPF states that when determining planning applications "Local Planning Authorities should take account of;

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- The desirability of new development making a positive contribution to local character and distinctiveness."

At para 133 it is advised that "where a proposed development will lead to substantial harm to designated heritage asset consent should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss".

Para 134 says

"where a development proposal will lead to less than substantial harm to the significance of designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".

Para. 136 says

"Local Planning Authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred."

Policies BE5 and BE6 in the Torbay Local Plan are also relevant to the assessment of

the proposed development in terms of heritage. Policy BE5 requires development within a conservation area to preserve or enhance the character or appearance of that area. Policy BE6 requires development proposals to have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest.

As required by the policies contained in the NPPF and the Torbay Local Plan 1995-2011 it is important to assess the effect of the development on the appearance and character of the Torquay Harbour conservation area and the listed buildings in the vicinity of the site. Both English Heritage (EH) and the Council's conservation officer had serious concerns about the impact of the proposal as originally submitted on the character and appearance of the Torquay Harbour conservation area. EH concluded that the proposal would have "a harmful impact on the special character and appearance of the conservation area. We have not received sufficient justification in line with the requirements of the NPPF to substantiate this harm and therefore, will be unable to support the application and would recommend that the application be refused".

It is not totally clear from English Heritage's response whether they consider that the proposed development would lead to 'substantial harm' (para. 133 NPPF) or 'less than substantial harm' (para. 134 NPPF). Reference is made to paragraph 134 of the NPPF in the consultation response so it appears that that EH considers the level of harm in this case is 'less than substantial'. This interpretation is supported by the fact that two previous planning applications for redevelopment on the site have been considered by and not objected to by English Heritage. In this case in order to assess the heritage impact of the proposal the harm has to be weighed against the public benefits of the proposal, including its optimum viable use.

If it was considered that the proposal would lead to substantial harm to the designated heritage asset the level of public benefit would need to be assessed as 'substantial' in order to outweigh that harm or loss.

The applicant has submitted a settings assessment to support the application. In this report the principle heritage asset that is identified as being susceptible to settings impact by the proposed development is the Torquay Harbour Conservation Area. The report identifies that the Torquay Harbour Conservation Area is characterised by a variety of materials, designs and architectural forms and for this reason is capable of accepting change in the form of new developments which are sympathetic to the overall character of the area. It is noted that the most crucial component of the setting which is highlighted in the Council's conservation area appraisal is the physical, topographic setting and spatial layout of the area. Developments which alter or contradict this aspect of the asset's setting are likely to pose a greater degree of impact. The report concludes that while the proposed development will pose a visual change within the conservation area, this is a change that can be accommodated and have a beneficial effect.

This conclusion of the applicant's settings assessment is contrary to the initial views of English Heritage. The Council's conservation officer is in agreement with English Heritage, that the original submitted scheme would result in substantial harm to the Torquay Harbour Conservation Area. He considers that as revised the proposed development would lead to less than substantial harm. As required by para. 134 of the NPPF it is necessary to weigh this level of harm against the public benefits of the proposal.

The applicant's setting assessment makes reference to considering the designated heritage assets within the Torquay Harbour Conservation Area but does not refer to these assets. There are a number of listed buildings within the vicinity of the site that include the Scala building on the opposite side of Torwood Street, the building occupied by Pizza Express to the east of the site, the Clock Tower, The Terrace, and the Unity Church in Montpellier Road. It is also considered that the impact on the setting of Vaughan Parade and Delmonte in Rock Road is also material. The two listed buildings that would be most affected by the development are the Scala building opposite the site in Torwood Street and The Terrace on the northern side of the site. With regard to the Scala building it is important that the new elevations of the proposed development compliment the elongated form of this building. The long term vacancy of the rear of the application site is harmful to the setting of the Scala building as it is dilapidated and highly visible from this building. It is concluded that there would be harm to the setting of the Scala building but it would be less than substantial. The five storey hotel element of the proposal would have an impact on the setting of the Terrace. This is by reason of the scale of the proposed building and its siting approximately 10 metres from the listed terrace. It is considered that whilst there will be some harm it will be less than substantial. The impact of the proposed development on other listed buildings referred to above would also be less than substantial.

As required by para. 134 of the NPPF it will be necessary for the heritage impact of the scheme to be considered against the public benefits of the proposal. The way that this should be considered is not to be addressed as a simple balancing exercise but to consider whether there is justification overriding the presumption in favour or preservation.

There would clearly be economic benefits to the town from the proposed development. It would provide a substantial investment in a prominent site within the town centre. Two floors of the building would be used for offices (one smaller office may be used as a gym) which would generate employment. It would also bring workers into the town centre who would be likely to use nearby shops and facilities. The 131 bedroom hotel would increase vitality in the town centre and would also provide employment opportunities.

Assessment of Public Benefits -

The applicant has submitted the following information to support an assessment of the public benefits. It is broken down into economic, social and environmental benefits in line with para. 7 of the NPPF which identifies these as the three dimensions to

sustainable development.

Economic

- Total construction investment approx £14million
- Total GDP increase £39.76m broken down into;
- Direct impacts (e.g. wage income) £14million
- Indirect impacts (e.g. supply chain) £15.26 million
- Induced impacts (e.g. increase in supply/demand in the wider economy) £10.5 million
- Tax benefits to the Treasury £7.84 million
- Construction jobs 148- 294 FTE
- Operational jobs either:

Between 348 -410 new jobs split as:

- Hotel 44- 106 depending on operator
- Office (assume 2850 sq m) 238
- Restaurants 47
- Retail 19

Or Between 320 – 382 new jobs split as:

- Hotel 44- 106 depending on operator
- Office (2,450 sq m) 204
- Gym (400 sq m) 6
- Restaurants 47
- Retail 19

Business rates tax receipt to Torbay Council

Increased spend – from hotel guests £2.8m -£3.7m per annum (assuming a range of 65- 85% occupancy) and from office employees arising from lunchtime

Social

Social benefits of new direct and indirect FTE employment

Supporting the vitality of the town centre and local visitor and other facilities through increased spend from hotel guests and office workers.

Environmental

Regenerating an underused and vacant town centre site.

Delivering a quality development that will contribute to the character and distinctiveness of the area. Locating new development in a sustainable location.

Para. 134 of the NPPF requires the assessment of public benefits to include securing the optimum viable use of the heritage asset. The proposal would result in the loss of the existing building, but will make effective use of the whole site, by significantly increasing the volume of development on the site.

In conclusion, the proposal would result in some harm to the Torquay Harbour conservation area and this has importance and carries weight in the planning balance. There will be public benefits from the significant level of investment that this proposal would generate and from the number of jobs that would be created. The economic regeneration in this location in Torquay would make a significant contribution to the viability town centre as it is in a prominent location.

Archaeology -

Policy BE9 in the Torbay Local Plan 1995-2011 states

“where development proposals may affect a site of archaeological potential, the applicant will be required to commission an archaeological assessment”

A historic building appraisal and rapid archaeological appraisal have been submitted in support of the application. This is an update of the archaeological appraisal that was submitted as part of the previous application, prepared in 2009. It advises that the significance of the buildings has been assessed, and they are considered to be a heritage asset of low significance, with this significance deriving from their evidential, historical and artistic values.

The Council’s archaeologist originally requested an evaluation of the buildings not previously entered to be submitted prior to the determination of the application. The updated report advises that the presence of asbestos has made access impossible. In the light of this it is recommended that a condition requiring implementation of a programme of archaeological works, is imposed.

Demolition -

It is proposed that all of the buildings on the site would be demolished. Paras. 131 and 132 of the NPPF advise that great weight should be given to the conservation of a designated heritage asset and that clear and convincing justification should be required for any harm or loss. As part of this application as required by para.133 of the NPPF it must be demonstrated that the loss of the designated heritage is necessary to achieve substantial public benefits that outweigh the harm or loss.

In support of the application a statement of justification for demolition has been submitted. This notes that despite attempts to develop schemes that retained varying amounts of the building group it has proved unviable to incorporate a meaningful amount of the existing structures.

The applicant has submitted as historic buildings appraisal that concludes the significance of the building are considered to be a heritage asses of low significance, with this significance deriving from their evidential, historical and artistic values.

A key consideration in deciding whether demolition of the existing buildings would be acceptable is the quality of the replacement scheme. As referred to above the proposal would deliver regeneration benefits within the town centre. As submitted English Heritage have concluded that the proposal is not appropriate in the conservation area

and therefore the position has not yet been reached that demolition of the existing buildings meets the tests within the NPPF.

Impact on residential amenity -

A letter of objection has been received from the owner of a flat immediately to the west of the site. This is located on the opposite side of the footpath, approximated 5.5 metres from the proposed building. The principle windows to the living area, kitchen and bedroom in this flat face the application site. The proposed development would inevitably have an impact on the residential amenity of the occupier. This would be in terms of the proximity of the proposed building to the flat which would impact on the level of light to the flat, and the outlook from this property. This is a material consideration that has to be taken into account in determining the application.

In order to take this relationship into consideration the applicant has revised the west elevation of the building to include oriel (angled) windows to the hotel bedrooms facing this property on the third and fourth floors. In addition obscure glazing to the office windows is proposed at first and second floor level.

Land conditions -

In support of the application a Phase I desk study and Phase II Geotechnical and Environmental Investigation Report has been submitted. It is noted that this report was produced in 2010 and is based on a former development proposal on the site that included residential units. It is considered that the principles relating to land conditions will remain the same for the current proposal and therefore it is not necessary to request the report be updated. The Council's Senior Engineer has reviewed the and not raised any issues.

The report identifies that there is a substantial contiguous pile wall along the majority of the rear boundary of the site up to the Terrace as the higher level. This retaining wall is anchored with reinforced concrete walling beams between the horizontal rows of anchors and blockwork facing, and was constructed in 1991. This new retaining wall forms most of the rear site boundary, with the exception of the western end where a much older cemented limestone retaining wall is present behind the soil mound. The Council engineer has advised that an inspection gap is required for maintenance of the retaining wall. A condition should be imposed to ensure that adequate consideration is included in the development for maintenance of stability of both the older masonry section of the highway retaining wall and the piled/anchored highway retaining wall.

With regard to contaminant levels on site, low levels were recorded and the site is considered to be of Low to Moderate Risk in respect of human health in relation to the proposed development. It is advised that:

- Basic Radon protective measures are necessary during construction
- Further investigations will be required in an area of the site where levels of hydrocarbons were encountered in the groundwater.

Viability -

In an objection to the application the issue of viability is raised. Part of para. 173 in the NPPF is quoted which states:

“pursuing sustainable development requires careful attention to viability in plan making and decision taking”.

The objector notes that planning permission has been granted for two previous applications on the site neither of which has materialised. He suggests that the “previous permissions cannot carry any weight in the decision making process”.

In response to this point further reading of para.173 in the NPPF shows that it is not intended to require Local Planning Authorities (LPA) to consider the financial viability of every scheme before them, it requires LPAs to consider the cost requirements that it puts on development and ensure that they are not of such a scale that viability is threatened.

It is not accepted that the earlier permissions are not capable of being material considerations. In officer’s opinion it is for the Local Planning Authority as decision maker to decide what weight is appropriate to give to the earlier consents.

The applicant has submitted further information explaining the issues of viability affecting the previously approved scheme and clarifying how the current proposal responds to viability issues. These include the following;

- Improves usable/lettable floor area
- Simplifies party wall issues
- Removes facades
- Reduces extent of external works
- Deletion of residential element reduces impact on structure and simplifies the split of uses
- Efficient layout of guest rooms which would be of a standard size and layout
- Third floor no longer set back allowing a double loaded hotel corridor to be accommodated.
- Simplified mix of uses per floor
- Simplified structural layout
- Reduced complexity of fire separation between uses.

Drainage -

South West Water has raised no objection to the application provided it is undertaken in accordance with the submitted details. The Environment Agency has raised no objection subject to conditions relating to contamination.

The Council’s Drainage officer supports the flood resistant and resilient construction measures that are proposed within the A3 units 01 and 02. He has raised no objection subject to conditions relating to detailed design of surface water drainage and the

submission of a flood management plan.

S106/CIL -

Under application reference P/2011/0035 a Section 106 agreement was signed that included a contribution of £100,000 for sustainable transport. This was a lower contribution than would be required in accordance with the Council's SPD "Planning contributions and affordable housing". The applicant had submitted a viability assessment to justify a reduction in the level of contributions. Also included in the agreement were the following;

- A range of measures to ensure that the highway retaining wall at the back of the site would be properly maintained, during and after the development
- Measures to secure the provision of acceptable travel plans for the various uses on the site
- Careful removal and potential re-use of stone from the parapet wall
- A review of viability is the scheme was not complete within 3.5 years from the date of approval.

In respect of the current proposal based on the provision of new floor space to accord with the SPD "Planning contributions and affordable housing" the following sustainable transport contributions would be required;

£382,802 with 4 x B1 offices

or

£415,262 with 3 x B1 offices and 1x gym

In the SPD it is advised that mitigation should be applied for the creation of new employment on the site. Based on the levels of employment estimated by the applicant the mitigation would be

£857,690 with 4 x B1 offices

Or

£785,340 with 3 x B1 offices and 1x gym

It can be seen that the amount of mitigation for new employment created by the development will offset the requirement for payment of a sustainable transport contribution.

There are a number of works to the highway such as forming the loading bay on The Terrace, the coach parking bay on Torwood Street, works to the pavement on Torwood Street, improvements to the footpath and the traffic regulation orders that are directly related to the development and will be necessary to make the development acceptable in planning terms. The cost of these works is as follows;

- £4,650 for Traffic Regulation Orders for The Terrace and for Torwood Street to include loading/unloading controls, including signing and lining, parking provision

- and removal, coach parking
- £5000 for 2 Informal pedestrian crossing access points adjacent to the site to the Harbour car park across Montpellier Road west of the road up to the car park entrance secured by S278 as enabling works
- Pavement widening as part of an improved street scene to help reduce pedestrian vehicle conflicts in the area adjacent to the site and down to the existing zebra crossing – estimated £80,000/£100,000 - secured by S278 as enabling works
- Public Right Of Way connecting Torwood Street to the Terrace - improve lighting, upgraded with CCTV at either end, new surfacing with granite paving and visual attraction improvement estimated - £30,000/£40,000 secured by S278 as enabling works
- Harbour Car Park reserved parking – subject to negotiations ongoing with parking direct secured by S278 as enabling works
- VMS signing for car parks estimated cost £15,000.

The following items that were included in the previous S106 agreement should be included in the new agreement that will be required for this proposal:

- A range of measures to ensure that the highway retaining wall at the back of the site would be properly maintained, during and after the development.

Conclusions

In conclusion, this proposal is effectively a revision to the development approved under application reference P/2011/0035. The main changes are the mix of development proposed (the residential element has been deleted in the current scheme), changes to the design of the building, the size of the building would be increased and the deletion of a new footpath link between Torwood Street and the Terrace. The principle of the development in this location would be consistent with policies in the Torbay Local Plan 1995-2011. The prominent location of the application site within the Torbay Harbour Conservation Area is a material consideration. Considerable negotiation has been carried out on the design of the building in order that it would not have an adverse impact on the appearance and character of the conservation area. The scheme has been revised since it was submitted which has included reducing the height of the building in the south west corner where the relationship with the adjoining buildings is most sensitive.

The proposed development would lead to some harm to the appearance and character of the Torquay Harbour Conservation area. In accordance with Section 12 of the NPPF strong countervailing factors need to be identified before granting planning permission for development that would harm a heritage asset. It is considered that this proposal would provide sufficient public benefits to justify the impact on the character of the area. The proposed development would result in considerable investment in the development and would provide an economic regeneration opportunity within the town centre. It would provide new employment, through the provision of a minimum of 2450m² of B1 office floor space. In addition the provision of a new 131 bedroom hotel within the town

centre would make an important contribution to the tourist industry which is recognised as being the 'cornerstone of the economy of Torbay'. English Heritage has maintained their objection to the proposed development following submission of revised plans. It is their opinion that the third floor of the Torwood Street elevation would be prominent and would have a looming quality over the streetscape. They suggest that the third floor should be set back into the site. Similarly they consider that the upper storeys of the Terrace elevation should also be set back into the site. The applicant has advised that the further modifications requested by English Heritage would make the scheme unviable. A viability assessment will be submitted to support this point. On balance subject to evidence to demonstrate that the suggested revisions by English Heritage would result in the proposed development not being a viable proposal for this site, it is considered that the proposal would constitute an acceptable form of development.

Condition(s)/Reason(s)

01. Sound insulation
02. No demolition without contract for redevelopment
03. Accord with flood risk assessment
04. Finished floor levels
05. Contamination scheme
06. Control over hours of demolition and construction
07. Operation of construction equipment
08. Method of piling to be agreed
09. Method of controlling vibration in relation to construction of scheme
10. Minimise dust during construction
11. Details of offsite highway works
12. Drainage details
13. Archaeological scheme of investigation
14. Scheme for footpath improvement
15. No equipment on roof
16. Details of impact on highway wall
17. Monitoring of retaining wall
18. Details of loads on retaining wall
19. Assessment of change in loadings to retaining wall
20. Details of protection to original masonry wall
21. Gym to be used for no other purpose in class D2
22. Large scale details
23. Detailed schedule of materials
24. Extract ventilation system

Relevant Policies

-

Application Number

P/2014/1062

Site Address

Gleneagles Hotel
Asheldon Road
Torquay
Devon
TQ1 2QS

Case Officer

Matt Diamond

Ward

Wellswood

Description

Demolition and Redevelopment to form 36 retirement apartments for the elderly including communal facilities, access, car parking and landscaping.

Executive Summary/Key Outcomes

The application is for the change of use and redevelopment of the three star Gleneagles Hotel, Asheldon Road, Torquay into a block of 36 retirement apartments for the elderly, with 13 car parking spaces. The existing building on the site would be demolished. The hotel was the inspiration for the BBC Fawlty Towers TV series. The southern part of the site is undesignated in policy terms, but the grounds to the north are covered by woodland which is designated an Urban Landscape Protection Area (ULPA) and wildlife corridor. The site is covered by an area Tree Preservation Order (TPO) and there is a prominent cedar tree to the front of the building. The site is opposite the Lincombes Conservation Area and affects its setting. Officers were recently informed that the hotel had ceased trading.

The proposed apartment block would be split level, three and a half storeys to the front and four and a half storeys to the rear, with ends that step down in height to fit in with the adjacent two storey housing. It would have a similar height and massing as the existing building, although would be approximately one metre higher and would extend further south on the plot to take up the entire width facing Asheldon Road. It also has a similar height and massing to a residential development proposal that was refused in 2004 and dismissed at appeal. The reason the appeal was dismissed was the impact the loss of the hotel would have on the range of tourism accommodation offered by the resort and the significance of its setting and location, with excellent sea views to the rear and proximity to local beaches.

As a result of the Council's tourism strategy of managing an overall reduction in the number of holiday accommodation beds spaces in Torbay, but an improvement in quality, the number of three star hotels in Torbay has increased since the 2004 appeal and this is no longer seen as a valid reason for refusal. In addition, whilst local planning policies and guidance resist the loss of medium size hotels outside Principal Holiday Accommodation Areas (PHAAs), which have a special character or location, evidence has been provided demonstrating the hotel is no longer commercially viable

and alternative tourism uses are also unviable. This includes marketing information from February 2011 to early 2013. The main reason quoted for the hotel's lack of viability is its location in a residential neighbourhood, with little passing trade and distance from the town centre/harbour.

The principle for the loss of the hotel and change of use to residential is therefore considered by officers to be acceptable. However, the design of the proposed replacement building is considered to be unacceptable, as it lacks local character and distinctiveness and harms the setting of the Lincombes Conservation Area accordingly. It fails to take the opportunities available for improving the character and quality of the area in accordance with the National Planning Policy Framework (NPPF). This conclusion is supported by Torbay's independent Design Review Panel. Therefore the application should be refused.

Should Members choose to approve the application, a s106 legal agreement will need to be prepared to secure necessary contributions in accordance with the Council's policies. An Independent Viability Assessment (IVA) has been carried out, as the applicants consider the scheme to be unviable if the full policy compliant level of affordable housing (11 dwellings) and contributions are delivered. However, the final report is awaited by officers. Initial indications are that the scheme can afford to pay a total contribution of £100,000.00, which includes an off-site affordable housing contribution in lieu of any on-site provision. Comments are awaited from Housing Services and a verbal update will be provided by officers at committee. As the contributions will not be policy compliant, an appropriate deferred contributions mechanism will need to be included in the s106 agreement should viability improve when the development is built.

In addition, a number of planning conditions will be required, some of which are referred to in this report, but officers will seek delegated authority to draft the full set of planning conditions.

Recommendation

Refusal; for the reasons set out in this report.

Statutory Determination Period

The application was validated on 03.11.2014. The statutory determination date is 03.02.2015 (13 weeks). An extension of time has been agreed to 12.02.2015.

Site Details

The site comprises the Gleneagles hotel and its grounds accessed from Asheldon Road in the Wellswood neighbourhood of Torquay. The site area is 0.6ha. The hotel is sited to the southwest of the plot, with a car park to the front and amenity garden space to the rear. The northern part of the site is wooded and slopes down to Stoodley Knowle recreation ground, with a pedestrian footpath leading to Ansteys Cove car park. The footpath is uneven in places and in need of repair.

The hotel is a three storey building with 41 bedrooms. It has a single storey conservatory extension to the rear used as a lounge/dining area. There is a swimming pool and patio behind a white rendered wall to the southeast of the building. There is a highly prominent cedar tree in the middle of the car park to the front of the building. There is also a row of poplar trees along the southern edge of the car park. There are numerous trees within the grounds and around the edge of the site; those identified as high quality include a 14 metre high yew tree next to the south boundary and 20 metre high Holm oak tree next to the north boundary in the adjacent property. The rooms to the rear of the hotel have sea views.

The site is located in a residential neighbourhood. It is a short walking distance from the centre of Wellswood to the south, which includes a number of shops and local facilities, including a primary school. It is a short distance away from Stoodley Knowle recreation ground and the beach at Anstey's Cove. It is also a short distance from the South West coast path.

The site is bounded by two storey residential properties in Ansteys Close to the northwest, woodland (believed to be in the grounds of the Palace Hotel) to the north, Stoodley Knowle recreation ground at the foot of the wooded slope to the east, residential properties to the south and Asheldon Road to the southwest. The residential properties to the south include 'Over Anstey', a split level detached dwelling, which is set at a significantly lower level to the hotel, and two storey dwellings in Colwyn Court. The private access to 'Over Anstey' runs adjacent to the southern boundary. Asheldon Road is a quiet road (although representations have been received saying it is used as a rat-run) with a sylvan character and is lined with lime and horse chestnut trees opposite the hotel. Across the road from the hotel is Asheldon House, a seven storey block of flats.

The western side of Asheldon Road and the properties to the west are located within the Lincombes Conservation Area. The historic character of the conservation area and wider area is defined by Victorian villas set in spacious landscaped grounds. The site is covered by an area Tree Preservation Order dated 7th November 1973. The hotel, car park and amenity garden are undesignated in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'), however the northern wooded slope is designated an Urban Landscape Protection Area (ULPA) (Policy L5) and Wildlife Corridor (Policy NC4). The northern tip of the site is within the Coastal Protection Zone. The policy context remains unchanged in the emerging Torbay Local Plan - A landscape for success (Proposed Submission Plan, February 2014) ('the emerging Local Plan'), except that Wildlife Corridor designations have been removed from the Plan. However, these still exist and are referred to in the Torbay Green Infrastructure Delivery Plan (April 2011).

During the course of the application on 20.01.2015, officers were informed that the hotel had ceased trading.

Detailed Proposals

The proposals are to demolish the existing building and develop a block of 36 retirement apartments for the elderly, including communal facilities, access and landscaping. The building would be split level with five floors. It would be three and a half storeys to the front and four and a half storeys to the rear, with the upper level flats provided in the roof space. The northwest and southeast ends of the building step down in height to two and a half storeys at the front, three and a half storey at the rear. In addition, a single storey refuse store and external, covered storage area for mobility scooters would be added to the southeast end of the building.

The proposed block has a similar height and massing to the existing building, although is slightly higher (approx. 1 metre). It would be sited in the same position and have a similar footprint, although would be orientated at a slightly less oblique angle to Asheldon Road than the existing building. However, it would extend further south on the site than the existing building, onto the area currently used as a swimming pool/patio area, and would extend less far into the amenity space to the rear (i.e. not on the area currently occupied by the single storey conservatory extension).

The 36 apartments would comprise 24 no. 1-beds and 12 no. 2-beds. An owner's lounge with a small kitchen would be provided on the ground floor to the front of the building overlooking the car park, as well as an office and reception next to the entrance lobby. According to the Planning Statement, the building would be run by a management company who will employ a lodge manager to provide assistance and security, and oversee maintenance during the day time. There is an emergency alarm system, which can be activated by pendants worn around residents' necks at other times of the day. The Statement says the lease would contain an age restriction of 60 years, but the average age of occupiers is 79 who tend to be single females.

The majority of the apartments would be single aspect. Of the 23 flats overlooking the rear of the property, 7 would have balconies and 3, on the lower level, would have verandas for sitting out on. Of the 13 flats overlooking the front of the property, 4 would have balconies and 3, on the ground floor, would have verandas/small patios. The flats on each floor would be accessed off a long, central corridor running the length of the building. There would be a central, wheelchair accessible, lift and two stairwells. A guest room would be provided on the first floor.

The large massing of the proposed building is broken up by two red brick projecting bays on the front elevation. Further articulation is achieved by stepping down the height of the ends of the building and projecting them forward slightly. The roof line also steps down above the entrance. The rear elevation is less well articulated. The lower ends of the building are inset slightly from the main part of the building, and the balconies are supported by spine wall projections.

The principal elevation materials would be render (grey/green colour tbc) and red brick, with an inset brick course at five course spacing. The roof would be natural

slate (grey tbc) on the pitched faces and single ply membrane on the flat parts. Windows would be white UPVC casement style and patio/balcony doors would also be white UPVC. Soffits would be white UPVC, whilst gutters and rainwater goods would be black UPVC. Window heads, cills and copings would be of reconstituted stone; a portico over the entrance would also be made from reconstituted stone. The balcony screens would be frameless glass, tinted blue/green.

The Design and Access Statement describes the style of the proposed building as broadly traditional/domestic, with contemporary style balconies. Whilst recognising the proximity of the site to the Lincombes Conservation Area, the Statement states the design does not seek to produce an authentic reproduction, but endeavours to provide well balanced and ordered elevations with a degree of symmetry often seen in some of the older mansions and villas in Torquay.

A car park would be retained to the front of the building, with 13 spaces. This would be smaller than the existing car park allowing for the creation of a small green space adjacent to the car park to the north. Other pockets of soft landscape would be introduced in front of the building. The existing vehicular access from Asheldon Road would be retained. The existing low red brick wall along the frontage and the prominent cedar tree would also be retained.

The amenity garden space to the rear of the site would be retained. The drawings show a communal seating/patio area (tbc) and the removal of some small trees in this space. The woodland on the northern part of the site would remain undisturbed. The submitted Ecological Assessment recommends managing this to include the removal of non-native species.

Summary Of Consultation Responses

Natural England: No objection re statutory nature conservation sites. Refer to standing advice re impacts on protected species. Within an area that could benefit from enhanced green infrastructure provision. The local authority should consider securing measures to enhance biodiversity, e.g. roosting opportunities for bats and bird nest boxes.

RSPB: Recommend provision of 36 integral nest sites for swifts and other species able to use suitable cavities in buildings, sensitive management, including habitat enhancement of the woodland, and submission of a Landscape and Ecological Management Plan (LEMP). Also, no works should take place during the bird breeding season (March to August inclusive). Lighting should be conditioned, with no lighting of the wooded area or its margins.

South West Water: No objection, subject to foul flows only being discharged to the public sewer.

Police Architectural Liaison Officer: West Devon, Torbay & South Hams: Site must be enclosed by a solid 1.8m high boundary treatment. There should be no open access to the sides or rear of the development. Private areas should be clearly defined. 13 parking spaces seems inadequate. Lighting should be carefully coordinated, so potential areas of risk are covered - bollard lighting is not appropriate. Ground level sight lines should be simple to not hinder surveillance. A number of other recommendations are made, which don't have a bearing on the application - these can be included in an informative if the application is approved.

Torbay Development Agency: Questions applicant's comments on the performance of the tourism economy, but states no substantive comments to make.

English Riviera Tourism Company: Contests statements made by the applicant that tourism is in decline, saying there has been a growth in visitors and spend to Torquay since 2011. The owners of Gleneagles have repeatedly turned down the opportunity to market the hotel as part of the English Riviera Promotional Partners Programme, preferring to operate independently. The Gleneagles could be a successful, viable 3-4* boutique style hotel and restaurant with some modernisation, perhaps funded through a mixed development on the site including apartments.

Torbay Design Review Panel (comments based on pre-application plans): Conclude that the approach being taken is mistaken and they cannot support the project as currently proposed. Basic investigative work needs to be undertaken before it can proceed properly. There is a great opportunity to create an exemplary development, but only if the proposals are reassessed and redesigned from first principles. The designers should refer to the HAPPI report (CLG/HCA/Dept of Health) and draw inspiration from some of the case studies and conclusions it contains.

Strategic Transportation/Highways: Strong concerns over the lack of consideration of access to the site by staff. A Staff Travel Plan is required. A returnable sum of £5,000 is required if the application is approved to enable traffic regulation orders to be introduced should parking become a problem within 3 years of opening. Secure, covered cycle parking should be provided for staff and visitors.

Senior Heritage & Design Officer: Recommends refusal. The proposals will have an adverse impact on the setting of the Lincombes Conservation Area. The existing building is associated with the BBC Fawley Towers TV series and has some cultural significance, but this is not sufficient to prevent the building's demolition. National and local design policies/guidance have changed since the dismissed appeal in 2004 to demolish the building and redevelop the site for flats, where the Inspector concluded at that time the design was acceptable. This includes publication of the NPPF and Urban Design Guide SPD. The applicants have not taken into consideration the historic form of the site, which has a smaller footprint than the existing and proposed schemes. The character of the area is one of small building footprints in spacious grounds. There is a lack of rigour in the contextual analysis and the design rationale in the Design and Access Statement is flawed. The proposed

building is dominant in the street scene, does not take full advantage of the sea views and is out of kilter with its surroundings. The design fails in its supporting role to the Lincombes area. A building with a smaller footprint would fit in with the historic built form and allow views from the street through the site, as recommended by the Torbay Design Review Panel. The proposal fails against paragraphs 63 and 64 of the NPPF, as it does not enhance the area and fails to take the opportunities available to improve the area. The design also fails against Policy DE1 of the emerging Local Plan.

Urban Design Officer (commenting on visual impact): A small glimpse of the hotel's east elevation is visible through the trees from Anstey's Playing Field car park and glimpses are obtained through the Anstey's Cove Road hedgerow. The enlarged footprint of the proposed building will expose a greater area of the east elevation to views from the publically accessible valley floor but these will largely be obscured by existing vegetation (even in winter) and offset by the use of recessive colours in contrast to the prominent white render and blue balconies of the hotel. In conclusion, the proposals will have a neutral impact on the ULPAs and wider landscape/townscape.

Housing Services: Comments awaited, as the IVA report has not been received. An update will be given at committee.

Engineering Service Manager: No details of proposed sustainable drainage system in the application. Trial holes and infiltration tests must be carried out to confirm that the ground conditions are suitable. The surface water system discharging to the sustainable drainage system must be designed in order that no flooding to properties is predicted for the critical 1 in 100 year design storm event plus an allowance for climate change.

Arboricultural Officer: There is an opportunity to improve the health of the prominent cedar tree to the front of the hotel by increasing the bed size and covering it with organic mulch. Detail of the final surface of the car park required to ensure no impacts to the cedar tree. (Further information was provided and the Arboricultural Officer confirmed the remaining details can be conditioned.) Also recommended conditions to secure further details of the trees and important shrubs to be removed behind the building, which should be replaced on a like for like basis, and a management plan for the wooded slope.

Natural Environment Services/Green Infrastructure Coordinator: Greenspace and recreation contribution should be sought, which would be spent on enhancements to the public open space at Stoodley Knowle and/or local footpath enhancements. Supports the recommendations in the submitted Ecological Assessment, which should be secured by conditions. A condition should also be added restricting works to outside the bird breeding season, unless under the supervision of a suitably qualified ecologist. Bird and bat boxes should be secured. The woodland area should stay in private ownership with a Woodland Management Plan and a public pedestrian

connection through the site is not desirable.

Building Control: Smoke venting considerations will need to be included, which may require minor alterations to elevations. Consideration needs to be given to the location and size of refuse storage due to the quantity of the units.

Community Safety: Comments awaited.

Torbay Local Access Forum: No comments provided.

Summary Of Representations

20 representations have been received, 17 objections and 3 neutral (but raising concerns). One of the letters of objection has been signed by 18 of the flat owners of Asheldon House, opposite the site. Three representations (two objections and one neutral) have been submitted by the occupiers of Over Anstey, the adjacent dwelling to the southeast of the hotel, set at a significantly lower level (see Site Details above). A few representations comment on an alternative proposal consulted on by the applicant, but not submitted to the Local Planning Authority. These comments have not been considered, as they do not relate to the proposed development in the application. This includes a representation from the Torbay Civic Society. The following material considerations (relating to the proposals as submitted) have been raised:

- Travel Plan is insubstantial
- The scale, bulk and boldness of the design and development is excessive and would be overbearing and dominate the existing surroundings.
- The development to the South East encroaches unreasonably onto Over Anstey and Colwyn Court.
- If the development is for older people why make it high rise? The site is deep enough for the development to be low rise and go deeper in to the site.
- Over development.
- Poor parking.
- Impact of construction on amenities (noise/dust).
- No jobs/loss of employment.
- Loss of tourist/cultural asset (Fawlty Towers connection)
- Pleasure at proposed replacement of unsatisfactory and inappropriate building.
- Insufficient parking for proposed number of apartments, as well as visitors and deliveries.
- Additional on-street parking would cause safety issues on Asheldon Road.
- Loss of light to Over Anstey.
- Too large.
- Yet another block of retirement flats.
- Impact on light and privacy to flats in Asheldon House.
- Noise and disruption.
- Impact on traffic and parking on Asheldon Road.
- Proposed landscaping to front should be used for car parking.

- More in keeping with surrounding properties than alternative proposal.
- Loss of hotel.
- Too large and imposing for site.
- Little consideration for the environment - loss of trees & damage to wildlife.
- Too high.
- Stepped lower ends give symmetry and blend with surrounding residential properties.
- Outside Tourist Hotel zoning area (Principal Holiday Accommodation Area)
- Demolition is overdue.
- Proposed development is angled more towards Over Anstey and footprint is far larger than existing building.
- Impact on privacy of Over Anstey.
- Loss of light and sunshine to Over Anstey.
- Potential for parked cars blocking access to Over Anstey.
- Blocks of flats not in keeping with Wellswood Village.
- Style and proportions quite well attuned to buildings in the area.
- Could dominate skyline from Anstey's Cove car park and adjoining parkland if too high.
- Asheldon Road used as a 'rat run'.

These representations have been sent electronically for Members consideration.

Relevant Planning History

- DE/2014/0278/ZP: Redevelopment to form approx 39 sheltered apartments for the elderly inc communal facilities, access, car parking and landscaping: Split decision 11.12.2014
- P/2004/0050/PA: Demolition Of All Existing Buildings And Redevelopment With 25 Apartments With Parking, Ancillary Works And Replacing Footpath and Pedestrian/Vehicular Access (Revised Scheme): Refused 31.03.2004 (Appeal dismissed 22.11.2004)
- P/2003/1345/PA: Demolition Of All Existing Buildings And Replacement With 25 Apartments With Parking, Ancillary Works And Replacing Footpath And Pedestrian/Vehicular Access: Refused 30.09.2003
- P/2002/1244/PA: Swimming Pool: Approved 27.09.2002
- P/1997/0380/PA: Erection Of Conservatory At Rear: Approved 27.05.1997
- P/1988/1432/OA: Erection Of 25 Flats With Associated Parking (In Outline): Refused 06.12.1988

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Design and Impact on Setting of Conservation Area
3. Impact on Amenity of Neighbouring Properties
4. Impact on Local Highways
5. Car Parking
6. Impact on Trees
7. Impact on Ecology
8. Surface Water Drainage and Flood Risk

1. The Principle of the Development

The relevant Local Plan Policies concerning the principle of the development are TUS, TU7, HS and H2. The 2004 appeal decision to redevelop the site for residential use is an important material consideration, as are the Council's 'Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan' (March 2010) and NPPF (March 2012), published after the appeal decision was made. Policy TO2 of the emerging Local Plan is a material consideration with some weight, due to the stage the emerging Local Plan has reached in its adoption process.

The site is not located within a Principal Holiday Accommodation Area (PHAA) (Adopted Local Plan) or Core Tourism Investment Area (CTIA) (emerging Local Plan), where tourist accommodation and investment are promoted. Local Plan Policy TU7 permits the change of use of hotels to non-holiday accommodation outside PHAAs, where all the following criteria are met:

1. the loss of the holiday accommodation would not undermine the holiday character in the locality, or the range of tourism facilities or accommodation offered by the resort;
2. the site of the accommodation is of limited significance in terms of its holiday setting, view and relationship to tourism facilities; and
3. the new use would be compatible with the character and other uses in the area.

The Inspector for the 2004 appeal considered that the loss of the hotel would not undermine the holiday character of the locality because the surroundings are mainly residential. This remains the case today, so the proposal accords with the first part of criterion 1. By the same token the Inspector concluded that the proposed residential use would be compatible with the area, so the proposal accords with criterion 3. However, the Inspector dismissed the appeal because they considered that the loss of the hotel would undermine the range of tourism accommodation offered by the resort, failing the second part of criterion 1, and the site has significance in terms of its holiday setting, view and relationship to tourism facilities, thereby failing criterion 2.

Turning to the second part of criterion 1 first, the 2004 appeal decision states that at

that time the hotel was one of fifteen 3 star hotels in the Bay, accounting for 5.7% of the bed spaces in that category. The Inspector considered that a loss of that magnitude would not be negligible, especially given the coastal location and proximity to beaches. Evidence provided by the English Riviera Tourism Company shows that the number of three star hotels in Torbay has increased from 15 to 20 between 2004 and 2014, together with the number of beds spaces in that category, currently 2,626. The Gleneagles Hotel has 41 bedrooms and 78 bed spaces. Therefore, notwithstanding the recent closure of the hotel, it currently accounts for 3% of three star bed spaces in Torbay.

The increase in the number of three star hotels and equivalent bed spaces over the last ten years is a result of the Council's tourism strategy of managing the reduction of holiday accommodation bed spaces overall, but improving quality, in order to attract visitors and spend. The increase in three star accommodation is the result of raising standards, i.e. two star accommodation moving to three star. In light of this, it is considered that the loss of the hotel will no longer undermine the range of tourism accommodation offered by the resort and the proposal now accords with the second part of criterion 1.

Turning to criterion 2, clearly the site of the hotel has not changed and it still benefits from excellent sea views to the rear and is near to local beaches. The revised guidance on the interpretation of Policy TU7 published in 2010 emphasises the importance of this as a material consideration, stating this will be highly relevant in determining applications. It goes on to say that residential use is likely to be allowed for medium size hotels outside PHAAs, such as Gleneagles, unless it has a special character/location etc. However, the viability of accommodation, or alternative tourism/leisure uses, and ability to meet modern standards is a consideration in all cases. The inspector for the 2004 appeal stated there was no evidence (at that time) that the hotel is not a viable business.

The above suggests the loss of the hotel should be resisted, unless sound and robust evidence is provided to demonstrate that the hotel is no longer financially viable as a business, and alternative tourism/leisure uses are also unviable. This reflects Policy TO2 of the emerging Local Plan, which reduces the number of criteria that need to be passed to allow the change of use of holiday accommodation outside CTIAs. One of the criteria (pertinent in this case) is that it must be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes. The applicants have submitted a Viability Study (Sept 2014) to demonstrate that this is the case.

The Viability Study is considered by officers to provide satisfactory evidence to justify the loss of the hotel. It predicts a total Net Operating Income of c.£260k over the next five years, but this falls short of the capital investment required over the same period of time to carry out maintenance to the building and retain a three star rating, estimated to be c.£328k; this includes replacing the heating and hot water system (although a survey in September 2014 revealed no obvious structural deficiencies).

The Study also identifies a number of potential alternative tourism uses, including conversion to a limited service hotel, up market boutique hotel and self catering holiday flats; however, the Study concludes that none of these options are commercially viable. The non-town centre location with limited passing trade/visibility is oft quoted as the major contributing factor to why tourism use of the site is unviable. Finally, the Study includes evidence of the hotel having been marketed for sale for a period of time: It was marketed from February 2011 to early 2013 at £2,000,000, during which time there were six expressions of interest. One offer at £1.75m was accepted, but fell through due to lack of financial support. Since then, the hotel has been marketed discreetly and whilst there have been expressions of interest, according to the Study these were withdrawn when the trading performance of the hotel was revealed. It concludes that even in an improving market the hotel is unlikely to appeal to a major hotel operator due to its location, small scale and out-dated product.

As per above, whilst the proposal fails against the second criterion of Local Plan Policy TU7, it is considered that sufficient evidence has been submitted to demonstrate that the hotel and other tourism use of the site is unviable. Therefore, the loss of the hotel is acceptable, taking into consideration the 2010 revised guidance. It also accords with Policy TO2 of the emerging Local Plan in terms of the change of use. It is considered that there are no policies in the NPPF that change this position.

In terms of the principle of the proposed replacement use as sheltered housing apartments, this is acceptable and generally accord with the requirements of Local Plan Policies HS and H2. Whilst some representations have pointed out the proliferation of retirement flats in the area and arguably this does not lead to a mixed and balanced community, as promoted by the NPPF and above policies, it is considered that there is insufficient evidence and policy justification to refuse the proposal on this basis.

Therefore, the principle of the proposed development in terms of the change of use is considered acceptable.

2. Design and Impact on Setting of Conservation Area

The Inspector for the 2004 appeal considered that the massing, siting and design of the appeal scheme would not have resulted in any additional impact on adjoining buildings or the Lincombes Conservation Area, which would have been so significant to justify dismissal of the appeal.

Whilst the proposed building is slightly higher in the main, the proposal is similar in scale and massing to the 2004 appeal scheme. Clearly the primary development plan document in the form of the Adopted Local Plan was extant then as it is now. Therefore, it is reasonable to say that the proposed development accords with Local Plan Policies BES, BE1 and BE5, although it is apparent that the Inspector did not

focus on these issues in his decision, as the primary focus was on the principle of the loss of the hotel.

However, planning legislation requires Local Planning Authorities to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise. Since 2004, the Council has adopted an Urban Design Guide SPD (May 2007) and the NPPF has been published (March 2012). These are both important material considerations, particularly as the policies in the Adopted Local Plan are now almost 15 years old. Policies TO2, HE1 and DE1 of the emerging Local Plan are also material considerations with some weight, due to the stage the emerging Local Plan has reached in its adoption process.

The NPPF highlights a presumption in favour of sustainable development, which means approving development proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- specific policies in the NPPF indicate development should be restricted, e.g. policies relating to designated heritage assets.

Whilst Local Plan Policies BES and BE1 are consistent with the NPPF in terms of promoting the enhancement of the built environment and taking into account local character, distinctiveness and wider context, they are not considered to be fully up-to-date, specifically with regards to paragraphs 58, 61, 62 and 64 in terms of taking into account local character and history; the integration of new development into the natural, built and historic environment; taking into account the recommendations from the design review panel; and refusing development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. These highlight the importance of the historic environment when analysing local character to inform design proposals and taking advantage of the opportunities available to improve local character and the quality of a place. Furthermore, Policy BE5 allows development proposals affecting conservation areas to preserve the character or appearance of the area, as well as enhance it, which suggests that a 'do no worse than existing' approach is acceptable. The emphasis in Section 12 of the NPPF is on enhancement and making a positive contribution to local character and distinctiveness (paragraphs 126, 131 and 137). The Inspector for the 2004 appeal did not state whether he considered the appeal scheme would preserve or enhance the character of the area, but they did refer to 'additional impact' which suggests the former.

The Council's Senior Heritage & Design Officer has objected to the application saying it is a poor design that will have an adverse impact on the setting of the Lincombes

Conservation Area. The primary reason for doing so is the failure of the applicants to take into consideration the historic form of the site and character of the area. This is described as buildings with smaller footprints than the existing hotel and proposed building, set within spacious grounds. This allows for public views through the site of the landscape and skyline. This historic development pattern, where buildings integrate with the topography and landscape in a more sensitive way, is a result of the planned development of the Warberry and Lincombe Hills in the estate of Sir Laurence Palk, which took place between about 1820 and 1880. The key development characteristic of the estate is classically designed stucco villas, typically painted white with slated roofs, sited in spacious grounds. This is referred to in the Council's Environmental Guide SPG (Sept 2004). The Senior Heritage & Design Officer has provided an extract from the second county series Ordnance Survey from 1906 showing this historic development pattern, which is also included in the Built Heritage Statement. Despite mentioning this local characteristic several times in the Design & Access Statement contextual appraisal, the applicants have ignored this in their analysis of site constraints and opportunities, choosing instead to make the building even wider and bulkier than the existing hotel. The design rationale for this is the supposed 'diverse context' of the site, as a result of other more recent developments in the area. However, it is noteworthy that the SPG states the following:

"responding to the character of the surrounding area does not mean that new development should necessarily emulate the site's existing adjacent developments. In many cases, existing buildings or features of existing buildings can detract from their surroundings. Where there are examples of poor design, they will not be regarded as a precedent for further developments of a low design standard." (paragraph 3.3)

This is surpassed by the following core principle on character in the Urban Design SPD:

"Development should promote local character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development, landscape and culture. Development should respond sensitively to the site and its setting, creating a place that is valued and pleasing to the eye." (A.1, p.23)

The following Character principle is also highly relevant:

"Designers should respond to local building forms and patterns of development in the detailed layout and design of development to reinforce a sense of place." (A.5, p.27).

The existing building is considered by officers to be an incongruous addition to the area, approved at a time when design and respect for local character were not high priorities. The main reason for this is its scale and massing, in particular it is considered to be too wide for the plot and is therefore out of kilter with the historic development pattern of smaller footprint buildings set in spacious grounds. Rather than respond to this in a positive way, as endorsed by the NPPF, the applicants have

chosen to replace like with like and extend the building even further south on the plot than the existing. Consequently, the proposed building would fill the entire width of the plot, preventing even the limited glimpses of landscape and skyline over the swimming pool as existing. The Torbay Design Review Panel confirmed this was not a satisfactory response to the setting. It would present a bulky built form to the street, out of character with the historic context, which would be made worse by the visibility of cars parked in front of the building. In addition, no attempt has been made to reinstate the historic boundary treatment in the form of grey limestone walls (Environmental Guide SPG, para. 13.8), which may help to screen the car park from the street. The NPPF states the following, which is highly relevant:

"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people." (Paragraph 56)

The Torbay Design Review Panel suggested alternative forms of development that would respond more positively to local character. This comprised a taller building with a smaller footprint, to provide space around the building, and the introduction of separate garden apartments, perhaps in a building extending deeper into the site and integrating with the topography and landscape. The applicants sought to test this via public consultation, but have not sought to test this approach with the Council or the Torbay Design Review Panel. As such this appears to have been carried out as an exercise in generating public support for the submitted scheme, as opposed to a meaningful response to the Design Review Panel's recommendations. Notwithstanding concerns by some local residents at the prospect of a taller building on the site, this shows that there are opportunities available through the redevelopment of the site for improving the character and quality of the area and the way it functions (NPPF, para. 64) and these should be explored properly by the applicants. The option of extending deeper into the site does not appear to have been looked at and would reduce the height of the alternative proposal consulted on by the applicants.

In light of the above, it is considered that the proposed development would have an impact on the local character and distinctiveness of the area, and in so doing the setting of the Lincombes Conservation Area. Accordingly it is contrary to paragraphs 56, 58, 60, 61 and 131 of the NPPF, as well as the relevant principles of the Council's Urban Design Guide SPD. In addition, the proposed development is considered to be a poor design that fails to take the opportunities available for improving the character and quality of the area, taking into account the recommendations of the Torbay Design Review Panel, and is therefore contrary to paragraphs 64 and 137 of the NPPF. For the same reasons as above, the proposed development does not accord with Policies TO2 (restore buildings or land to original historic form), HE1 and DE1 of the emerging Local Plan. These material considerations indicate the application should be refused, despite the Inspector's view that the design of the 2004 appeal scheme was acceptable and not against the Built Environment policies of the Adopted Local Plan.

Turning back to the presumption in favour of sustainable development, it is considered that the negative impacts of approving the scheme on the character and distinctiveness of the area, and setting of the conservation area, would significantly and demonstrably outweigh the benefits of the redevelopment. Whilst the proposed new use as sheltered accommodation is considered to be acceptable on the basis of the hotel and other tourism uses being commercially unviable, it would not result in significant benefits, for example, the creation of a high number of jobs. In addition, the Torbay Design Review Panel pointed out that the internal organisation of the building would require artificial lighting during daylight hours, which is not conducive to good design in terms of carbon saving/reducing greenhouse gas emissions and the health and quality of life of residents.

Therefore, the application should be refused.

3. Impact on Amenity of Neighbouring Properties

As discussed above, the Inspector for the 2004 appeal considered that the appeal scheme would not have resulted in any additional impact on adjoining dwellings, which would have been so significant to justify dismissal of the appeal, including Over Anstey. The appeal scheme was of a similar height and massing to the proposed development, with windows and balconies overlooking the rear of the property, including Over Anstey. The substantial difference in levels between the appeal scheme and Over Anstey, as well as vegetation and landform, meant that there could be no adverse impact on privacy. This remains the case with the current proposal, which is orientated slightly differently to the appeal scheme and doesn't face towards Over Anstey quite so directly. Therefore, it is considered that the proposed development would not have an impact on the privacy of Over Anstey.

Concerns have also been raised with the potential loss of light and overshadowing of Over Anstey. A Shading Study was produced by the applicants of the existing building and proposed development. This suggests that there might be some overshadowing of Over Anstey in the late afternoon during the summer, including an outdoor seating area, whereas the current occupiers say that they have the benefit of sunshine until approximately 6.30pm in mid-summer. However, this is not considered to be significant enough in terms of causing undue detriment to warrant a reason for refusal.

The only other amenity consideration to take into account is the impact of the windows on the northwest elevation on the privacy of Villa Anstey and other dwellings to the north. This elevation partly faces towards the gardens of these properties, whereas the appeal scheme did not. The kitchen windows of apartments 29 and 30 on the second floor would overlook the gardens of these properties, particularly apartment 30. Therefore, if the application is approved, a condition would need to be added ensuring these windows are obscure glazed. Boundary vegetation screens the lower floors of the proposed development.

A Construction Method Statement will be required by condition should the application be approved to show how nuisance to neighbours will be minimised during the construction phase.

4. Impact on Local Highways

A number of representations raise concerns with the impact of the proposals on traffic generation and safety of Asheldon Road. Strategic Transportation officers have also raised concerns with the lack of parking/access for staff and requested a Staff Travel Plan. This has been received and confirms there will only be one member of staff, the lodge manager, who will be responsible for implementing and promoting the Travel Plan. If this person has a car it is likely that they will be allowed to use one of the on-site parking spaces. The accommodation is provided for the 'active elderly' so visits from nurses and care workers are likely to be sporadic according to the Staff Travel Plan. It also states visitors are likely to be aware of sustainable travel options to get to the site. Strategic Transportation officers have requested a returnable sum of £5,000 to implement traffic regulation orders on Asheldon Road should on-street parking become a problem within three years of opening, although this should be changed to full occupancy. They also require secure, covered cycle parking on-site for staff and visitors. Should the application be approved, these will have to be secured by s106 agreement or condition. Strategic Transportation officers have raised no concerns with the impact of the proposals on the safety and function of local highways, subject to these provisions. Therefore, the proposals accord with Local Plan Policy T26 and emerging Local Plan Policy TA2.

5. Car Parking

A number of representations raise concerns with the lack of on-site car parking for the residents of the apartments. 13 spaces are provided for 36 apartments. However, the number of car parking spaces accords with Policies T25 and TA3 of the Local Plan and emerging Local Plan respectively. Policy T25 sets a maximum parking standard of one space per two units for sheltered flats, which equates to a maximum of 18 spaces. The proposed number of parking spaces is below this maximum. Policy TA3 requires one space per five units for sheltered flats, which equates to seven spaces. The proposed number of parking spaces meets this requirement.

Therefore, the proposed level of car parking provision is acceptable.

6. Impact on Trees

There will be no impact on important trees either on or near the site. The prominent cedar tree to the front of the building would be retained and its health could be improved. Should the application be approved, the Council's Arboricultural Officer has recommended a number of conditions to ensure the continued health of this tree and protection of other trees, including like-for-like replacement where any are to be removed.

Therefore, subject to appropriately worded conditions, the proposals accord with Local Plan Policy L9 and emerging Local Plan Policy C4.

7. Impact on Ecology

The proposals would not affect the area of woodland on the northern part of the site. This area is overgrown at present and unmanaged. In accordance with the consultation responses and local and national policies aimed at enhancing biodiversity, should the application be approved a condition should be added requiring the submission and implementation of a Landscape and Ecological Management Plan (LEMP), including Woodland Management Plan, to cover this area and the remaining site. Conditions should also restrict works to outside the bird breeding season and require details of external lighting to ensure no harm to wildlife, including bats. The LEMP should provide for Phase 2 bat surveys of mature trees should they be lost from the woodland, in accordance with the submitted Extended Phase 1 Ecological Assessment. Conditions should also secure provision of bird and bat boxes.

Therefore, subject to appropriately worded conditions, the proposals accord with Local Plan Policies NCS and NC5, and emerging Local Plan Policy NC1.

8. Surface Water Drainage and Flood Risk

South West Water will not allow surface water to drain to the public sewer. Therefore, a sustainable drainage system will be required to dispose of surface water from the site. No details of this have been provided in the application. Therefore, a strongly worded condition will be required to approve these details prior to development commencing on-site, should the application be approved.

S106/CIL -

The policy compliant level of affordable housing for the scheme is 11 dwellings (30%). The policy compliant contributions for the scheme are set out below. These have been calculated in accordance with the Planning Contributions and Affordable Housing SPD and its Update 3, and 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012. The South Devon Link Road (SDLR) contribution has been top-sliced from the Sustainable Development contributions in even amounts. This has resulted in the Stronger Communities and Lifelong Learning - Libraries contributions being reduced to zero. No Sustainable Transport contribution is required, due to mitigation applied to the existing use. In addition, the Greenspace and Recreation contribution has been partly mitigated to account for the dwellings being sheltered accommodation.

Waste Management (Site Acceptability)	£ 1,800.00
SDLR	£21,065.00
Greenspace and Recreation (Sustainable Development)	£10,535.00
 TOTAL =	 £33,400.00
<u>TOTAL + 5% Administration Charge =</u>	<u>£35,070.00</u>

The applicants consider the scheme will be financially unviable if it has to deliver the policy compliant level of affordable housing and contributions. Therefore, an Independent Viability Assessment (IVA) has been carried out, in accordance with Council policy, by an independent valuer. Whilst the IVA has yet to be issued to the Local Planning Authority, the independent valuer has informed officers that the total contribution the scheme can afford to pay is £100,000.00. This amount includes an off-site affordable housing contribution in lieu of any on-site provision. Taking into account the Council's priorities for contributions and affordable housing, this would mean the required contributions for the scheme would be as follows:

Waste Management (Site Acceptability)	£ 1,800.00
SDLR	£ 21,065.00
Off-site Affordable Housing	£ 75,465.00
 TOTAL =	 £ 98,330.00
<u>TOTAL + 5% Administration Charge =</u>	<u>£100,000.00</u>

The above contributions would have to be secured in a s106 agreement. The agreement will also need to secure £5,000.00, returnable after 3 years of full occupation, to enable traffic regulation orders to be introduced should parking become a problem on local streets. It will also need to include an appropriate deferred contributions mechanism should viability improve when the development is built.

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 accords with Local Plan Policy W7.

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.

The contribution towards affordable housing is justified in Section 3.0 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6). It also

accords with Local Plan Policy H6.

Status:

The IVA report has not yet been issued to officers and therefore comments are awaited from Housing Services on its conclusions. These comments will be obtained before committee and the required contributions will be confirmed to Members at the meeting. The applicants have agreed in writing to pay £100,000.00. The applicants have not paid the independent valuer's fee for producing the IVA, but will be expected to do so after the IVA is issued. A verbal update will be provided at committee. Should Members approve the application, a further extension of time will have to be agreed with the applicant in order to provide sufficient time for Legal Services to draft the s106 agreement and for it to be signed by all parties.

Conclusions

Officers consider that the change of use on the site from tourism accommodation to residential is acceptable and in accordance with adopted Local Plan Policies TUS and TU7, and emerging Local Plan Policy TO2. There has been an increase in the number of three star hotels and corresponding quality of bed spaces in Torbay over the past ten years since a similar proposal for residential development on the site was dismissed at appeal. The applicants have submitted evidence to show that the hotel and alternative tourism uses on the site are commercially unviable and this is accepted by officers, albeit counter-intuitive to recent trends in the Bay.

However, officers consider that the design of the proposed development is bulky, lacks character and distinctiveness, and fails to take the opportunities available for improving the character and quality of the area following design review, contrary to the relevant policies and principles of the NPPF and Urban Design Guide SPD, and emerging Local Plan Policies TO2 and DE1. It will therefore have an adverse impact on the setting of the Lincombes Conservation Area opposite the site contrary to emerging Local Plan Policy HE1. The adopted Local Plan Policies BES, BE1 and BE5 are considered to not be fully up-to-date with regard to their compliance with the NPPF, and therefore the application should be refused for the material considerations set out above. There are considered to be no benefits of the scheme that outweigh the negative impacts of the design put forward on the character of the area.

Condition(s)/Reason(s)

01. The proposed development would have an adverse impact on the local character and distinctiveness of the area, and in so doing the setting of the Lincombes Conservation Area, through an increase in building footprint and massing compared to the existing building, contrary to the historic development pattern of the area. Therefore, it does not accord with paragraphs 56, 58, 60, 61 and 131 of the NPPF, or the relevant principles of the Urban Design Guide SPD, which seek to ensure new development responds to the identity of local surroundings. In addition, the proposed development is

considered to be a poor design that fails to take the opportunities available for improving the character and quality of the area, taking into account the recommendations of the Torbay Design Review Panel, and is therefore contrary to paragraphs 64 and 137 of the NPPF. For the same reasons as above, the proposed development does not accord with Policies TO2, HE1 and DE1 of the emerging Torbay Local Plan - A landscape for success: The Plan for Torbay - 2012-2032 and beyond.

02. No s106 agreement has been prepared to secure the necessary contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD, and 'Third Party Contributions towards the South Devon Link Road' report adopted by the Council on 6 December 2012. 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 and paragraph 206 of the NPPF.

Relevant Policies

HS	Housing Strategy
H2	New housing on unidentified sites
H9	Layout, and design and community aspects
H11	Open space requirements for new housing
TUS	Tourism strategy
TU7	Change of use/redevelopment outside PHAA
CF2	Crime prevention
CF6	Community infrastructure contributions
CF15	Accommodation for people in need of care
LS	Landscape strategy
L5	Urban Landscape Protection Area
L9	Planting and retention of trees
L10	Major development and landscaping
NCS	Nature conservation strategy
NC5	Protected species
EPS	Environmental protection strategy
EP5	Light pollution
EP6	Derelict and under-used land
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
BE5	Policy in conservation areas
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development
T26	Access from development onto the highway
NPPF	National Planning Policy Framework

Agenda Item 9

Application Number

P/2014/1215

Site Address

Combe Pafford School
Steps Lane
Torquay
Devon
TQ2 8NL

Case Officer

Mr Scott Jones

Ward

Watcombe

Description

Removal of detached two storey temporary building and construction of infill building to accommodate teaching space and vocational training.

Executive Summary/Key Outcomes

The site is a mid-sized school that caters for children who have moderate learning difficulties or autism. The school offers a progressive academic system integrated with a range of vocational interests, which is planned for wider personal development.

The application is to replace a two-storey detached temporary building that itself sits amongst buildings in a fairly central location in the site, with a permanent two-storey building linked to adjacent buildings. The aim is to improve the educational space by principally re-providing the previous facilities lost from the temporary building in an improved internal environment.

The proposals are acceptable in principle and are supported by policies in the Saved Adopted Torbay Local Plan and the NPPF.

The development area is not sensitive being developed land that currently holds a building and circulation routes.

The location is not considered sensitive in terms of visual impact or amenity, and the proposal will sit comfortably aside the existing buildings when considering its scale and form.

The established playing fields to the north are unaffected and it is not proposed to increase school numbers and hence transport impact is limited.

The site sits at the head of the Fleet River and hence development may have an impact in terms of wider flood risk away from the site. The Council's Drainage Officer has requested further information in order that there is certainty on there being no increase in risk of flooding. It is considered that this can be achieved by condition in this circumstance.

Recommendation

Approval - Subject to conditions outlined at the end of this report.

Statutory Determination Period

The target date for a decision is 5th March 2015 and subject to the committee resolution a decision is expected prior to this date.

Site Details

A suburban school site that sits to the south of Moor Lane in Watcombe, Torquay, which is bounded by areas of residential use, Local Authority playing fields (to the east) and a further school site (to the west).

The plot is loosely divided into an expanse of playing fields and play space to the north with school buildings contained to the south.

The existing group of buildings incorporates a variety of building designs as the school has expanded gradually over the years. The development area for the proposal sits amongst this nucleus of buildings.

Detailed Proposals

The application is for a two-storey school building to replace an existing detached two-storey temporary building, set in a courtyard enclosed by buildings to three sides.

The proposed building will be finished in brick and render with elements of glazed curtain walling. The roof will be gently pitched metal sheeting. Internally it will provide 4 classrooms, a hairdressing salon and a fitness suite, along with more ancillary office, storage, pastoral and WC space.

The existing building to be removed is two-storey and flat roofed, and holds 3 classrooms, a 6th form room, a life skills room and a fitness suite.

Summary Of Consultation Responses

South West Water: No objection.

Drainage Department: The applicant should demonstrate that the surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the site.

Environment Agency: Do not object to the proposal however as the site is in a Critical Drainage Area surface water drainage standards apply.

Highway Officer: No comment, other than there are parking concerns in the area and it is recommended that funding is secured, if possible, to review parking restrictions in the area.

Sustainable Transport Officer: Verbal comment that obligations should not be sought in light of there being no increase in numbers however an updated travel plan should be achieved by condition.

Summary Of Representations

None received.

Relevant Planning History

There is an extensive planning history for the site covering various large and small scale matters. The most pertinent proposals in the past 10 years are as follows;

P/2014/1035	New one storey 6th form building - Approved
P/2013/1257	Demolition of portacabin and provision of new learning facility/cafe/teaching accommodation - Approved
P/2011/0387	Extension to form office/interview room to side of existing classroom block - Approved
P/2009/1195	Construction of vocational training centre - Approved
P/2008/0022	Formation Of Business And Enterprise Centre - Approved
P/2007/1457	Ground And First Floor Mobile Classroom With Toilets And Changing Rooms With Showers And Stores - Approved
P/2003/1486	Erection Of 4 New Classrooms; New Multi-Purpose Hall, And Associated External Works - Approved

Key Issues/Material Considerations

Considering the context of the site and policy guidance the key issues in respect of this application are:

1. The principle of development
2. Design and visual impact
3. Drainage impact
4. Highway impact
5. Other matters

Each of these matters is addressed in turn below.

1. The principle of development

The most directly relevant Local Plan Policy is CF10 *New schools and improved school facilities*. The policy provides for the improvement and expansion of existing school facilities providing the following relevant criteria are met:

- 1) School sites are of a sufficient size to accommodate the design and layout
- 2) Proposals have regard to the need to safeguard existing playing fields
- 3) Proposals can be accommodated without undue detriment to surrounding residential areas.

In regard to national guidance paragraph 72 of the NPPF states that local planning authorities should give great weight to the need to create, expand or alter schools in support of ensuring that a sufficient choice of school places is available to meet the needs of the community.

The proposal is considered to satisfy the above criteria. The building is considered to be an efficient use of previously developed land within the site and the proposal relates well to the scale of buildings present and reinforces the established building group that sits as a collective in the wider site. It does not affect the playing fields and due to its central location it would not impact adjacent residential areas through noise or disturbance.

2. Design/Visual Impact

The proposal is considered acceptable in regard to its design and visual impact.

The location of the development is not considered sensitive, which limits any impact of development upon the wider built environment. It will be set fairly centrally within the site and enclosed by buildings on three sides. The development area also presently holds a substantial building which will be removed, which again reduces the impact of introducing a slightly larger building in this location.

The two-storey scale relates well with the buildings that it will sit amongst.

The form and palette of materials is unremarkable however it would appear to be a pragmatic design solution for the scale of the building when considering the largely limited architectural merit of the wider group of buildings.

In respect of design and visual impact the proposal is considered an acceptable addition on the site that responds to the context and would be an appropriate change to the wider built environment.

3. Drainage impact

The site sits at the head of the Fleet River and surface water discharge may have implications outside of the site.

The impact of the drainage strategy is uncertain and further detail to demonstrate that the development would not increase the risk of flooding on land adjacent to the site should be secured.

It is considered appropriate to seek to achieve resolution via a planning condition that seeks further detail, to the satisfaction of the Authority's Drainage Department.

4. Highway impact

The development replaces existing educational space and the accompanying detail with the application cites that it is not envisaged that staff of school numbers will increase as a result of the development.

In the absence of any expansion in pupil numbers the highway implications of the proposal are likely to be minimal.

The school's working green travel plan should be updated to respond to the development and this should be achieved by condition, in line with advice from the Authority's Sustainable Transport Officer.

5. Other matters

As the site is over 1hectare the development has been screened in accordance with the EIA regulations. In this circumstance it has been concluded that the development would not have a significant effect on the environment due to its size, location or character. An Environmental Impact Assessment is not required in this instance.

S106/CIL -

N/A.

Conclusions

The fundamental principle of redevelopment to improve the facilities is considered acceptable and the site is considered to have the attributes to comfortably accept the scale of development.

The scale and design of the proposed block is considered to sit comfortably within the context of the adjacent group of buildings and the relationships across the sites borders.

The impact upon highways and movement is considered limited due to the building replacing an existing building. An updated travel plan should be secured by condition.

Additional information on drainage is required and a planning condition should secure this.

Condition(s)/Reason(s)

01. Submission of drainage details to the satisfaction of the Authority's Drainage Department
02. An updated travel plan for the school to be submitted and approved
03. A sample of the metal sheet roofing shall be submitted and approved

Relevant Policies

-

Application Number

P/2014/1231

Site Address

Jewson Ltd
St James Road
Torquay
Devon
TQ1 4AZ

Case Officer

Mrs Ruth Robinson

Ward

Tormohun

Description

Demolition of Jewsons builders store and redevelopment to provide 24 no. residential apartments in a three storey building with 20 car parking spaces, a detached three storey office building and store to the rear of the site with parking. (Re-Submission of P/2014/0185)

Executive Summary/Key Outcomes

Jewsons Builders Merchants previously operated from a former quarry site on St James Road. It is now vacant and this application involves demolition of the existing storage sheds and their replacement with 24 flats in a three storey block fronting the street with a rear wing extending back into the site and, as a second element, the construction of a new HQ comprising office space and storage for a local building company located towards the rear of the site.

The loss of this employment use is considered acceptable when judged against the relevant tests in policy E6 of the saved Adopted Local Plan due to the poor quality of the existing premises and its impact on the neighbourhood in terms of noise, vehicular activity and disturbance. Indeed, Jewsons has new premises in close proximity to this site.

The proposed residential scheme is of a slightly higher density than is prevalent in the area. However, due to the configuration of the site, which extends well back into the quarry area, the relative separation of the site from its neighbours and the height of the existing storage buildings (which form a reasonable benchmark for an acceptable scale of building) it is considered that this site has the capacity to accommodate a scheme of this density without undue impact on the character of the streetscape or on the amenity of the neighbourhood.

The design of both elements of the scheme is considered acceptable. The frontage building replaces the redundant double height sheds with a traditionally designed 3 storey block of flats. The rear wing, which is more screened from view is of a more contemporary but complimentary design as is the discretely sited Office/Store.

Subject to additional detail firming up the submitted 'conceptual' hard and soft landscape scheme and the boundary treatments, the scheme is considered to be acceptable in terms

of the loss of the existing employment use, the overall design, the quality of the proposed residential environment and impact on neighbours including adequacy of onsite parking. As such it complies with the relevant policies in the saved Adopted Local Plan.

The applicants claim that due to abnormal costs (stabilising the quarry face) the scheme is unable to meet the full Affordable Housing and s106 contributions. This has been tested through submission of an IVA. The IVA confirms reduced viability and the exact level has yet to be determined.

It is recommended however that a deferred contributions clause be included in the S106 agreement to secure additional deferred contributions in the event that the scheme is more profitable than anticipated.

Recommendation

Conditional approval; subject to the submission of revised plans providing adequate detail in relation to hard and soft landscape treatment and boundary treatments, a signed s106 legal agreement/unilateral undertaking in terms acceptable to the Director of Place, within 3 months of the date of this committee to secure agreed level of AH/S106 contribution and costs of TRO/pavement reinstatement if appropriate. Suggested conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Statutory Determination Period

This application has a 13 week determination period. This expires on the 14th March.

Site Details

The application site comprises a vacant Building Merchants with retail sales located in a densely developed residential area comprising mainly two storey terraced dwellings.

The site is a former quarry, is predominantly level, extends some way back from the street and is occupied by 2 double height timber slatted storage buildings backing onto the quarry face and wooded hillside. This is a prominent local landscape feature.

Former quarrying activity is evident in the excavation to the rear of the site. The quarry faces have been recently stabilised through netting. To the east of the site is a small chapel in use as a Nursery and beyond this, St James School.

A dropped kerb extends across the entire frontage to the site to facilitate servicing and access for the Builders Merchants.

There are yellow lines in operation on the street frontages adjacent to the site.

It is well located in relation to public transport and local services.

In the Torbay Local Plan 1995-2011 there are no allocations relating to the site.

Detailed Proposals

This detailed application is for the construction of 24 flats (12 x 1 Bed and 12x 2 beds) in a 3 storey building with 20 car parking spaces occupying the major part of the site.

A three storey office/storage building with a separate vehicular access, parking and turning space is proposed for the rear of the site occupying a hollowed out area of quarry.

The street elevation of the block of flats is of a traditional appearance with rendered walls, sash windows and a pitched slated roof. To the rear extends a 3 storey wing which is more hidden from view. The design is more contemporary with a flat roof, balconies and an extensive roof garden.

Residential parking (20 spaces) extends down both sides of the rear wing with access to the highway available from each side of the building.

Summary Of Consultation Responses

Highways: Have no objection to the reduced parking levels.

Community Safety: Advised that hours of construction should be limited to 8.00-18.00 hours Monday to Friday and 8.00 to 13.00 hours Saturday. In respect of the Office/store it is suggested that hours of operation and deliveries are restricted to 7.00 to 18.00 Monday to Friday and 8.00 to 13.00. They have also considered the Contaminated Land Survey and will comment about the need for a Remediation Strategy.

Green Infrastructure Coordinator: Welcomes the use of native species and introduction of roof garden. It is recommended that detail and management regimes are secured by condition. Greenspace contributions should be secured towards the agreed improvements for Upton Park. In terms of ecology, it is recommended that the conclusion of the Bat Activity Survey to secure a sympathetic lighting system be secured by condition along with restricting demolition to outside the bird nesting season.

Arboriculturalist: Comments that the scheme is vague in terms of proposed landscape treatment/tree species. This should be rectified along with engineering details of the proposed tree pits.

Drainage: Is satisfied with the scheme in terms of surface water runoff.

Summary Of Representations

There have been 2 letters of objection raising concerns about car parking and the impact of this development on a busy heavily parked road and a potential adverse impact on the privacy of No. 13 St James Road unless screening is introduced.

These representations have been sent electronically to Members for consideration.

Relevant Planning History

P/2014/0185/MPA: Development of 30 residential units and office store;
Withdrawn following advice that application would be refused for poor design and overdevelopment.

There has followed extensive pre app discussions to reduce the scale of development on site and improve the design quality.

Key Issues/Material Considerations

The key issues are the principle of redeveloping the site for residential purposes, the character of the scheme, its design, whether it sits comfortably in its surroundings and whether the car parking levels are adequate given the location of the site.

It is also a key consideration that the applicants claim they cannot deliver Affordable Housing and full Community Infrastructure Contributions due to abnormal development costs and consequent poor viability.

Each of these issues will be addressed in turn.

There are a number of site specific issues in relation to flood risk, land stability, land contamination, ecology and landscape which are largely resolved and addressed at the end of the report. Additional information and/or conditions are required to finally satisfy these matters.

Principle of Development.

The site was formerly a Builders Merchants. This included the storage of a whole range of building materials on site for sale and distribution. It is therefore an employment site and as such its loss needs to be judged against criteria 1-4 of policy E6 of the Local Plan which seeks to retain such uses.

In summary, this only allows loss of employment land if there would be no significant effect on wider employment opportunities, it would not limit the range and quality of sites or premises available or a more sustainable balance of uses would be achieved and the existing use is a cause of significant harm or nuisance to the amenity of the area.

In this case, the employment activity on the site is partly mitigated by the provision of a new office/store on the site. This is to provide a base for Macarthy's a local building company and it will form their new HQ and store replacing their current Coombe Road site.

The existing storage use is accommodated in dated semi open sheds which require substantial investment. Thus there is no substantive loss in terms of the range and quality of employment premises available.

Further, a significant amount of vehicular activity is generated by the retail and distributive side of the operation and given the close proximity of dwellings a more mixed use would

be more compatible with the neighbouring area. As such, it complies with the tests in policy E6 and its loss should not be resisted.

Character of the Scheme.

The existing neighbourhood is quite densely developed with predominantly terraced 2 storey family dwellings. This scheme delivers a three storey flatted scheme at a slightly higher scale and density than the immediate area. Due to the configuration of the site, which extends well back into the quarry area, the relative separation of the site from its neighbours and the height of the existing storage buildings (which form a reasonable benchmark for an acceptable scale of building) it is considered that this site has the capacity to accommodate a higher density scheme than prevalent in the area without undue impact on the character of the streetscape or on the amenity of the neighbourhood.

In doing so, it complies with Policy H10 of the saved Adopted Local Plan which seeks an efficient use of brownfield land in well placed urban sites with good access to services such as this.

In terms of the street scene, the residential building is similar in height to the existing storage sheds but it is of a traditional design that sits more comfortably with the character of buildings in the area.

The rear part of the building is more contemporary, is largely enclosed by the quarry landform and so is not much exposed to view. It has a parapet flat roof which contains a communal roof garden and each flat has access to a spacious balcony.

The office/store is also of a more contemporary design. It is located to the rear of the site tucked into the 'hole' remaining from quarry activity on the site. Given its use as an office and storage facility for local builders, a more remote location is a bonus and reduces the opportunity for noise nuisance.

Other key aspects of the design include how the site is laid out in terms of amenity space, car parking and means of access. In this case, there are limited opportunities for ground level amenity space due to the need to include parking spaces and vehicular access for both the residential and commercial elements of the scheme. This is a 'space hungry' approach to developing the site which the applicant is keen to achieve in order to provide the business premises with a clear separation from the residential development.

The applicants have agreed to introduce a roof garden to provide residents with amenity space. This is achievable on a site such as this as it only has limited overlooking to adjacent properties due to its position within the quarry. This occupies the whole of the rear wing of the block of flats and subject to detail, this will mitigate for the lack of space within the body of the site.

In terms of the arrangement of car parking and vehicular movement, this is ranged along each side of the residential block and a separate vehicular access is provided to serve the office/store.

In design terms, the determination to retain a separation between the two uses creates most of the pressure on space and has the most adverse impact on overall quality of the design. It results in the car parking for the flats being self contained bays to each side of the block and it means doubling up on access points and turning facilities.

The scheme was tested by officers using the BFL criteria and through considerably upgrading the quality of finish, for example using stone boundary features to define the front boundary to the site, using a good quality hedging detail with tree planting to separate the access to the office/store from the proposed flats and creating a high quality hard and soft landscaped space around the building (thus lending itself to a dual use approach) then it obtained a score that suggests it would be inappropriate to refuse planning permission on design grounds.

The reinstatement of the pavement fronting the site, to replace the dropped kerbs, which a site related requirement of this scheme, will enhance the quality of the streetscape. This should be secured via a S 278 and Grampian condition.

It is necessary however to ensure that the conceptual approach shown in the submitted plans is 'fleshed out' before the permission is issued to be confident that a quality outcome is achieved. The size and species of trees/plants is required, along with specifications of hard surfacing materials and details of the front and internal boundary treatments.

In terms of coexistence, the separation does limit potential nuisance however, it is appropriate to limit the hours of operation and deliveries to reduce noise and disturbance to the future occupiers of the site.

A further test in terms of density and scale is how comfortably the scheme sits in the site and whether there are undue impacts on the quality of the residential environment created and/ or on that of the neighbourhood.

The criteria a scheme is expected to satisfy are included in policy H9 and H 10 of the saved Adopted Local Plan. The extent of the site and its relatively unconstrained relationship with adjacent properties does allow a more intensive development than might otherwise be acceptable.

An objection in relation to impact on privacy was raised by the occupant of No 13 St James Road. This arises due to the inclusion of side windows in the proposed block. The distance from here to the boundary is 24 metres which is beyond the usual 21m rule of thumb. Further, it is not between habitable room windows, only between windows and a relatively public side garden and substantial hedging and tree planting is proposed which will in time mitigate any perceived overlooking.

It is thus considered that the scheme fits acceptably with its surroundings, meets the needs of future occupiers in terms of amenity space, outlook, waste facilities, parking and cycle provision and there are no undue impacts on the amenity enjoyed by people living adjacent to the site. As such it complies with Policies H9 and H10 of the saved Adopted

Local Plan.

Adequacy of Parking Levels.

A concern of residents is the congested nature of the street in terms of traffic movement and car parking and fears that this development will exacerbate these problems.

The scheme provides 24 flats with 20 on site car parking places. Policy T25 of the Local Plan suggests a maximum provision for flats of 1 space per unit plus 1 space per 2 units for visitor use. This would suggest the need for 36 spaces. It must be noted however that this is a maximum provision and there is some flexibility allowed if the site is well located in relation to services and public transport.

Policy H10 suggests that on such sites parking provision can be reduced. The site is located in an area that is generally heavily reliant on 'on street' car parking which accounts for the concerns from people living near to the site. The site is close to St James School which will generate much car parking demand at the start and end of the school day.

It is also the case that the previous use would have generated a significant amount of vehicular activity in the area and associated car parking which would have put pressure on local parking capacity. The whole of the frontage to this site comprises dropped kerbs with yellow lines in force over much of this part of St James Road presumably to ensure that Jewsons could be serviced when operational.

Clearly there is now scope to return more of the street frontage to public car parking due to the reinstatement of the pavement and this will help mitigate the shortfall in on site provision on this site. The costs of the Road Traffic Orders to achieve this should be included in the S106.

Due to the circumstances of the site, its location and history it is considered that the scheme is in compliance with the provisions of policies T25 and H10 of the saved Adopted Local Plan and delivers sufficient car parking spaces.

Flood Risk/Surface Water Disposal/ Contaminated Land/Ecology Landscape.

Issues around flood risk and surface water disposal are resolved and conditions are required to secure implementation.

Land stability concerns have been investigated and resolved.

In terms of contaminated land conditions are required to ensure that any further detail is provided and to ensure implementation of required Remediation Strategy.

Landscape and ecology issues can be resolved by the submission of further detail (prior to permission being issued) and appropriate conditions.

S106 Contributions and Affordable Housing Provision

The scheme provides for 24 residential flats and in accordance with policy H6 of the saved

Adopted Local Plan should provide 30% on site Affordable Housing. It should also, in line with policy CF6, provide the following in terms of Community Infrastructure Contributions as defined in the Adopted SPD 'Planning Contributions and Affordable Housing'

Planning Contributions Summary	Contribution	Early Payment
Waste Management (Site Acceptability)	£ 1,200.00	£ 1,140.00
Sustainable Transport (Sustainable Development)	£34,026.67	£32,325.33
Stronger Communities (Sustainable Development)	£ 0.00	£ 0.00
Lifelong Learning (Sustainable Development)	£ 1,226.67	£ 1,165.33
Greenspace & Recreation (Sustainable Development)	£18,746.67	£ 17,809.33
South Devon Link Road	£13,520.00	£ 12,844.00
Total	£68,720.00	£65,284.00
Administration charge (5%)	£ 3,436.00	£ 3,264.20
Total with Admin Charge	£72,156.00	£68,548.20

The applicant contends that due to abnormal construction costs (primarily investigation and netting of the quarry face) then the scheme is unable to meet the whole of these costs. An IVA has been carried out and this concludes that the viability of the scheme is marginal due to the high costs of dealing with the quarry face and the relatively low sales value.

The exact level of this has yet to be determined as more information is required in relation to construction costs. It is recommended however that a deferred contribution clause is included in the S106 to secure some additional contributions in the event that the scheme is more profitable than anticipated.

Conclusions

The scheme to re develop the Builders Merchants to provide 24 flatted units along with a new HQ for a local building company is considered to be acceptable in terms of the loss of the existing employment use, the overall design, the quality of the proposed residential environment and impact on neighbours including adequacy of onsite parking. As such it complies with the relevant policies in the saved Adopted Local Plan.

The applicants claim that due to abnormal costs the scheme is unable to meet the full Affordable Housing and s106 contributions. This has been tested through submission of full costings and an IVA. The exact sum has yet to be determined as more information is required in relation to constructions costs. It is recommended that a deferred contributions clause be included in the S106 agreement to secure additional contributions in the event that the scheme is more profitable than anticipated.

Recommendation

Conditional approval; subject to the submission of revised plans providing adequate detail in relation to hard and soft landscape treatment and boundary treatments, a signed s106

legal agreement/unilateral undertaking within 3 months of the date of this committee to secure the agreed level of AH/S106 contribution and costs of TRO/pavement reinstatement if appropriate; suggested conditions are listed at the end of this report, however final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

Conditions

Large scale details.

Materials.

Implementation of landscape scheme.

Sample panel of natural stone to be used in front boundary treatment.

Details of Roof garden and maintenance regime.

Hours of operation and deliveries in relation to Office/ Store.

Construction Management Plan.

Lighting scheme to mitigate impact on bats.

No demolition during bird nesting season.

Remediation strategy for contaminated land.

Surface Water Disposal.

Implementation of car parking/cycle storage.

Travel Plans for both residential and commercial elements of the scheme.

No occupation until pavement fully reinstated.

Relevant Policies

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Agenda Item 11

Application Number

P/2014/1107

Site Address

Westbourne Hotel
106 Avenue Road
Torquay
Devon
TQ2 5LQ

Case Officer

Mr Scott Jones

Ward

Cockington With Chelston

Description

Change of use from hotel to house in multiple occupation (HMO) for the purposes of staff (as detailed in letter received 09.01.2015)

Executive Summary/Key Outcomes

The proposal is to change the use of a small hotel located off Avenue Road in to a house in multiple occupation (HMO) for the purposes of staff accommodation associated with a local hotel group.

There is notable local objection to the scheme that largely raises concern on the potential impact upon the character of the area and the precedent that it may provide for further HMOs.

The plot sits opposite a Principal Holiday Accommodation Area (PHAA) that runs along the eastern side of Avenue Road. The Ward boundary of Tormohun lies to the east on Avenue Road, a ward which has historic problems with deprivation. This means the area is sensitive in terms of introducing HMOs. However HMOs do represent an important source of inexpensive housing in the right context.

A standard HMO could potentially cause conflict with the character of the holiday area and would exacerbate local levels of deprivation. However a HMO for the use of staff employed within the holiday trade is considered an acceptable use. Occupiers will work in and understand the holiday industry and therefore they are less likely to cause conflict with holiday-makers, which is often a concern. Consequently, if the premises are used for staff accommodation, only the use is unlikely to exacerbate levels of deprivation and the social issues that rise from it.

Recommendation

Approval; Subject to conditions on occupancy for the purposes of staff (as detailed in the submission), there being suitable management/supervision on site and the existing parking facilities being retained.

Statutory Determination Period

An extension of the determination period has been requested until the 16.02.2015 in

order for the proposal to be considered by Development Management Committee.

Site Details

The site is a corner plot at the junction of Avenue Road and Sandford Road (Torquay) and holds a detached two-storey building. There is limited curtilage and the plot provides a small landscaped garden to the front with parking to the side and rear. The building is currently unoccupied. The established use is a hotel.

The building is moderate in terms of scale and the form is somewhat unremarkable,, with brick and render walls inset with modern casement windows set under areas of pitched and flat roofing.

In regard to relevant designations the site sits in the Torre Conservation Area and opposite the Avenue Road North PHAA, which is a “Green Zone” PHAA as outlined within the Authority’s 2010 updated guidance.

Detailed Proposals

Change of use from hotel to HMO for the purposes of staff (employed by Rew Hotels Ltd).

The HMO will have 9 bedrooms, most of which will have connected en-suites, along with communal kitchen and dining rooms. One of the 9 bedrooms will be a manager’s bedroom.

Summary Of Consultation Responses

None.

Summary Of Representations

The application has generated a high number of representations (over 50) opposing the change of use.

The points raised mainly focus on the impact of a HMO in what is a holiday area, with concerns on behaviour, noise, disturbance etc, and the possible precedent it may set.

These representations have been sent electronically for Members consideration

Relevant Planning History

None.

Key Issues/Material Considerations

Considering the proposal and the context the key issues are:

1. The principle of the loss of the hotel;
2. The principle of the use as a HMO for hotel staff

1. Principle of the loss of the hotel -

The loss of the hotel is considered acceptable subject to the precise use being secured by condition.

The building sits outside of the defined Avenue Road North PHAA and therefore the key guidance is contained in Policy TU7 (Change of use or redevelopment of holiday accommodation outside PHAAs) of the Saved Local Plan and the related 2010 update guidance.

Policy TU7 outlines that a change of use is acceptable where the loss of the holiday accommodation would not undermine the holiday character in the area or harm the range of tourism facilities or accommodation offered by the resort. The 2010 update guidance states that the policy is to protect “special” hotels that provide important facilities or command spectacular views.

When considering the limited scale of the hotel and the potential of any holiday offer, which includes its setting in a restricted plot adjacent to a busy road in a mixed holiday and residential area, the loss of the hotel is considered acceptable and in accordance with policy guidance.

It is appreciated that the loss of the hotel is a concern raised in the public representations. However, in the circumstance, for the reasons stated above, policy guidance is clear that, subject to the new use being compatible with the character and other uses in the area, the move from holiday use would be acceptable.

2. The principle of the use as a HMO for hotel staff -

The principle of a HMO specifically for the use of staff employed within the holiday industry, as detailed in the application, is considered acceptable. Staff employed in the hotel industry are often on low salaries and/or part time. Consequently they need accommodation locally that they can afford.

Key policy guidance in regard to HMOs is outlined in Policy H7 (Houses in multiple occupation), which outlines relevant criteria for where they will be permitted. The relevant criteria will be discussed below.

1. Location:

The criterion outlines that the property should be located within easy reach of public transport and community facilities.

The location is relatively central and within easy walking distance of a range of facilities and the town centre. Occupants would also benefit from good access to local transport links. The proposal is considered to satisfy this criterion and provide a satisfactory location for the proposed use in terms of access.

2. Affect on neighbouring residential amenities:

The criterion outlines that the scale and nature of the use should not adversely affect

neighbouring residential amenities.

The impact of the change in occupancy from holiday-makers to permanent occupants will be limited in the absence of any significant extension and/or intensification.

Any potential increase in the levels of noise and disturbance would not be significant as both uses will result in a degree of activity and noise in and around the site. The proposal is considered to satisfy the criterion and provide a use that doesn't unduly harm neighbouring amenity.

3. Car parking and movement impacts:

The criterion outlines that the proposal should not generate unacceptable levels of traffic or environmental affects.

The change in occupancy from holiday-makers to permanent residents is unlikely to result in any notable change in traffic and its residual effects. Holiday-makers may or may not stay with a car and permanent occupants also may or may not own or use a car. Car activity may actually reduce as occupants within shared accommodation often do not own or use cars.

On-site parking is available for occupants to the side and rear of the building, which will limit the impact upon residential streets in the area in terms of pressures upon street parking.

With a condition to ensure the parking is retained and kept available the proposal satisfies this criterion as potential traffic and movement impacts appear limited.

4. The loss of holiday accommodation in PHAAs:

The site does not sit in a PHAA and hence the criterion is not relevant in this case. The principle of the loss of the hotel has however been discussed within this report.

5. Harm to the amenity and character of the area:

This criterion seeks to consider the effects more broadly than that previously discussed under residential amenity and covers the wider implications of the development on the area. In the context the key considerations are the impact upon (i) the holiday character and (ii) the balance and mix of the community.

(i) Holiday character:

The site sits adjacent to a PHAA and hence the impact upon the holiday character of the area is a material consideration. This is a concern raised in a number of the public representations.

As previously discussed the concept of the loss of the hotel is considered acceptable, subject to the precise use (as staff accommodation) being secured in the process. In terms of guidance the following policy aims are relevant:

Policy TU6 (PHAAs) outlines that proposals for change of use that are to the detriment of the character and function of PHAAs will not be permitted.

Policy TU7 (development outside of PHAAs) outlines that any new use should be compatible with the character and other uses in the area.

The accompanying 2010 update guidance states that where the principle of the loss of the hotel is acceptable the Authority should seek family housing or self-contained apartments. It also cites that HMOs are likely to conflict with policy guidance if the premises are close to a holiday areas.

A non-specific “standard” HMO would raise concern in regard to the impact upon the holiday character of the area, as such uses can lead to conflict between holiday-makers and residents, especially if they are not managed properly. The application is however for a bespoke form of HMO for the housing of staff employed within the holiday trade by a local hotel group. A specific use is a material consideration and hence the judgment should take into account the proposed use rather than just a broader HMO use.

Persons directly employed within the holiday accommodation industry are likely to be sensitive to the needs or expectations of holiday-makers and the importance of a successful holiday industry in Torbay. Direct involvement in the industry is likely to reduce the likelihood of conflict because of this.

Although guidance outlines that the Authority should generally seek family homes or self-contained flats when considering the move from holiday to residential use, planning policy also underlines the fact that HMOs provide an important form of inexpensive housing and a staff HMO would appear an acceptable alternative to a dwelling or flats in this instance.

Due to the reasons given above in this specific context the provision of a HMO for the purposes of hotel staff accommodation is considered to provide a residential use that would not undermine or cause conflict with the holiday character of the area.

(ii) Mixed and balanced communities:

The site sits on the border of the Tormuhun Ward, which has historically suffered from high levels of deprivation and the linked social issues.

The 2010 update guidance helps clarify that concern in regard to deprivation is a relevant consideration as such areas are sensitive to the introduction of HMOs, which could compound the social issues linked to deprivation.

As the site is in such close proximity to the Tormuhun Ward a ‘standard’ HMO would raise concern in terms of its planning merit when considering the aspirations to create mixed and balanced communities.

The proposal is however for a HMO to accommodate staff employed by a local hotel group, which provides a slightly different context in terms of the wider community and the potential impact upon that community.

Having considered context, in terms of the location and the residential mix in the area, the proposal is unlikely to increase deprivation or exacerbate the social issues that are linked to it.

The impact upon the community is the chief concern raised in the public representation however the occupancy of the building by staff is unlikely to result in the harmful effects raised in the public representations.

It is considered that planning conditions can secure the specified use and it is expected that the conditions should cover that the occupancy is solely for person/s employed by the hotel group, and that the owner should maintain a log of who is occupying the building, what position of employment within the hotel group they hold and the number of hours that they are employed. The log should be made available to the Authority upon request.

6. Standard of living accommodation:

The standard of the living accommodation is considered acceptable for that expected of a HMO.

Rooms are naturally lit and appear to be suitable in terms of their size. Most rooms are supplemented by linked en-suite facilities.

There is communal space in support of the private rooms in the form of a kitchen and a dining room, and there is parking on site.

The proposal is considered to provide an acceptable living environment and hence the proposal appears to satisfy this criterion.

7. Adequate storage and waste facilities:

The building and plot is considered to provide sufficient space to provide waste and storage facilities.

8. Suitable supervision:

Policy guidance outlines that HMOs should be properly supervised as poor management is a key factor that leads to nuisance and complaints.

The application identifies that there will be a room for a resident manager/supervisor. There is a lack of detail in relation to this issue. Further detail on the management of the property is required and can be secured by use of a planning condition.

S106/CIL -

N/A.

Conclusions

The loss of the hotel is considered acceptable when considering that the site sits outside of a defined PHAA and that any potential holiday provision is limited due to the constraints of the site and building and its' unremarkable location.

The move to a standard HMO would raise concern because of the buildings close proximity to the Avenue Road North PHAA and the Tormohun Ward, with implications upon the holiday character and issues associated with extreme deprivation.

The specific use is a material consideration and in this case the application is for a HMO only for staff accommodation employed by a hotel group. The use of the building solely for the purposes of those employed within the local hotel trade is considered acceptable.

The proposal is considered acceptable subject to conditions to secure use for staff purposes as indicated and for there to be a suitably qualified resident/manager.

A condition to include the requirement for the applicant to hold a register of occupants at all times, which should be made available to the Authority upon request, and hold detail in regard to where they work and in what post, and for what hours, should also be attached for monitoring purposes.

Condition(s)/Reason(s)

01. The building shall only be occupied by persons in the employ of Rew Hotels Limited under contract of no less than 19 hours per week
02. At all times whilst the use is in operation there shall be a suitably qualified resident manager/supervisor or other suitable arrangements as agreed by the Authority.

Relevant Policies

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