



Friday, 4 March 2016

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 14 March 2016

commencing at **2.00 pm**

The meeting will be held in the Grace Murrell Suite, Riviera International Conference Centre, Chestnut Drive, Torquay

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor Cunningham
Councillor Darling (S)
Councillor Manning

Councillor Morey
Councillor Robson
Councillor Stringer
Councillor Winfield

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

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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 9 February 2016.

(Pages 5 - 8)

3. **Declarations of Interests**

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

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

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

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

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

4. **Urgent Items**

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

5. **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.

- 6. Oldway Mansion, Torquay Road, Paignton (CN/2015/0081/CON and CN/2015/0100/CON)** (Pages 9 - 21)
 Discharge of conditions 3, 4, 8, 10, 11, 12, 13 and 14 for P/2011/1020 (Change of use of Oldway Mansion and Rotunda from Council Offices to hotel with ancillary conference and spa facilities. External alterations, entrance foyer and refurbishment/reinstatement of glass conservatory. Demolition of squash courts. Improvements to existing car parking area and new car parking to rear service area).
- Discharge of condition re (P/2011/1021) Change of use of Oldway Mansion and Rotunda from Council offices to hotel with ancillary conference and spa facilities Cond 4 - Phasing Programme Cond 5 - CMP, Detailed Programme Conditions Survey and Structural Survey Cond 7 (Mechanical and Electrical and Civil Structural Strategy Cond 8 - Lighting Strategy Cond 9 - Flues and Extracts.
- 7. Land West Of Brixham Road, Paignton (P/2015/1126/MRM)** (Pages 22 - 35)
 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development.
- 8. 13 Esplanade Road, Paignton (P/2016/0038/VC)** (Pages 36 - 45)
 Alterations and separation of Nos.12 & 13 (reinstatement of original separate properties) to form 11 bedroom hotel (No.12) and 7 Holiday Apartments (No.13). Single storey extension at rear to form Utility Room for No.12. (Removal of Condition 1 Ref: P/2013/1320 - Holiday Occupancy).
- 9. Land At Paignton Green, Parks Path, Paignton (P/2016/0133/PA)** (Pages 46 - 48)
 Erection of coffee kiosk (Resubmission of P/2015/1123).
- 10. Wheatridge Lodge, Wheatridge Lane, Torquay (P/2015/0939/HA)** (Pages 49 - 57)
 Detached double garage with workshop and storage above to rear of property (as revised by plans received 16.12.2015).
- 11. Land Adj. Beggars Roost, Beach Road, Babbacombe, Torquay (P/2015/1184/PA)** (Pages 58 - 71)
 Change of use to provide car parking (19 spaces), associated landscaping and associated works.
- 12. Former Jewson Ltd, St James Road, Torquay (P/2015/1225/PA)** (Pages 72 - 80)
 Conversion of loft space and part enclosure of roof terrace to form 4no. additional apartments, two with access to open roof terrace. Alterations to external elevations. Increase in car parking provision from 20 to 22 spaces.
- 13. 28 Shiphay Avenue, Torquay (P/2016/0093/HA)** (Pages 81 - 83)
 Side extension.

14. South Devon College, Long Road, Paignton (P/2015/1210/LDO) (Pages 84 - 99)
Erection of buildings and/or the use of land for the purposes of education, associated student accommodation and car parking, not to exceed the 23,000m² (gross internal area) of new total floor space, over a time period of 15 years. (This is a proposal for a Local Development Order).

15. Site visits
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 9 March 2016. 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

9 February 2016

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Cunningham, Doggett, Morey, Robson, Winfield and Tolchard

(Also in attendance: Councillors Excell, Lewis and Thomas (D))

70. Apologies for absence

An apology for absence was received from Councillor Stringer.

It was reported that, in accordance with the wishes of the Conservative and Liberal Democrat Group, the membership of the Committee had been amended for this meeting by including Councillors Tolchard and Doggett instead of Councillors Manning and Darling (S) respectively.

71. Minutes

The Minutes of the meeting of the Development Management Committee held on 11 January 2016 were confirmed as a correct record and signed by the Chairman.

72. Urgent Items

The Committee considered the items in Minutes 73 and 74, and not included on the agenda, the Chairman being of the opinion that it was urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

73. Jewson Ltd, St James Road, Torquay (P/2014/1231/MPA)

The Senior Planning Officer requested a four week extension to allow for the Section 106 Agreement in respect of the above application to be completed.

Resolved:

That a four week extension be granted to allow for the Section 106 Agreement to be completed.

74. The Cottage, Windmill Lane, Paignton (P/2015/0755/PA)

The Team Leader Development Management advised that at its meeting of 9 November 2015 (Minute 45/2015 refers) the Committee had resolved to approve

the application subject, amongst other things, to the submission of a phase 1 ecological report and any subsequent surveys. The phase 1 ecological report had been submitted, indicating that no serious harm would be caused by the development but the ecologist had indicated that further studies would be required which could only be carried out in the spring/summer months. These surveys would inform how mitigation would be carried out. Planning permission has not yet been issued.

Resolved:

That permission is granted subject to an additional condition prohibiting commencement of development until further ecological surveys have been carried out.

75. Land Off Berry Head Road, Berry Head, Brixham P/2015/1092/MPA

The application was withdrawn from the agenda.

76. Oldway Mansion Site, Torquay Road, Paignton CN/2015/0081/CON (inc. CN/2015/0100/CON)

The Committee considered an application for the discharge of conditions 3, 4, 8, 10, 11, 12, 13 and 14 for P/2011/1020 (change of use of Oldway Mansion and Rotunda from Council Offices to hotel with ancillary conference and spa facilities. External alterations, entrance foyer and refurbishment/reinstatement of glass conservatory. Demolition of squash courts. Improvements to existing car parking area and new car parking to rear service area).

At the meeting James Brent addressed the Committee in support of the application.

Resolved:

That the application be deferred for a period of one month to explore whether concerns over the security of the delivery of the development can be overcome through a reconsideration of the Independent Viability Assessment and the possible use of joint account/bond arrangements to provide confidence about restoration of the heritage asset. The application to be considered at the next Development Management Committee.

77. 1 Southfield Road, Paignton P/2015/0840/MPA

The Committee considered an application for the erection of a four storey block of flats comprising twelve 2-bed flats with associated pedestrian/vehicular access and parking.

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

Resolved:

Refused for the reasons set out in the submitted report.

78. 9 Sandringham Drive, Paignton P/2015/1050/HA

The Committee considered an application for a replacement garage and side extension, loft conversion, alterations and extension to terrace (as revised plans received).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were circulated to members. At the meeting Mrs Lesley Penner and Phil Blurton addressed the Committee against the application and Mr Chris Perry addressed the Committee in support of the application. In accordance with Standing Order B4.1, Councillor Lewis addressed the Committee as Ward Councillor.

Resolved:

That the application be approved with a condition relating to surface water drainage.

79. Wheatridge Lodge, Wheatridge Lane, Torquay P/2015/0939/HA

The Committee considered an application for the provision of a detached double garage with workshop and storage above to rear of property (as revised by plans received 16 December 2015).

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 for more information in respect of drainage matters and that the Council's Tree Officer be requested to consider and comment on the impact the development would have on the trees.

80. 17 Morgan Avenue, Torquay P/2015/1144/PA

The Committee considered an application for change of use from offices (class A2) to holiday hostel (Sui Generis).

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

Resolved:

Approved with the conditions set out in the submitted report, and the provision of a monitoring contribution via an upfront payment or completion of a Section 106 Agreement.

81. North Quay Slipway, Vaughan Parade, Torquay P/2015/1230/PA

The Committee considered an application for the erection of Coffee Kiosk for temporary 2 year period: April to October in summer location adjacent to the existing seafood kiosk and November to March in winter location adjacent to top of slipway.

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

Resolved:

Approved, subject to:

- (i) a condition controlling hours of use and to ensure it complies with the summer and winter periods of occupation which comprises April to October in the summer location adjacent to the existing seafood kiosk and from November to March in the winter location on the opposite side of the slipway;
- (ii) a condition to secure its removal at the end of the two year period; and
- (iii) an informative to advise that due to the appearance of the kiosk, its retention beyond the two year temporary period is unlikely to prove acceptable.

Chairman

Agenda Item 6

Application Number

CN/2015/0081

Site Address

Oldway Mansion
Torquay Road
Paignton
Devon
TQ3 2TY

Case Officer

Mrs Ruth Robinson

Ward

Preston

Description

Discharge of conditions 3, 4, 8, 10, 11, 12, 13 and 14 for P/2011/1020 (Change of use of Oldway Mansion and Rotunda from Council Offices to hotel with ancillary conference and spa facilities. External alterations, entrance foyer and refurbishment/reinstatement of glass conservatory. Demolition of squash courts. Improvements to existing car parking area and new car parking to rear service area)

Executive Summary/Key Outcomes

Applications to discharge of a range of pre-commencement and other conditions in relation to the planning and listed building applications to change the use of Oldway Mansion, the Rotunda and Stables to provide a Hotel and Spa were considered by DMC at its meeting of the 9th February.

Of particular significance were conditions relating to phasing which link the implementation of the enabling development (the 101 dwellings) to the restoration works to the listed buildings and grounds and secure an enforceable timeframe for delivery of these restoration works.

These are No's 3 and 4 related to P/2011/1020/PA and No 4 related to P/2011/1021/LB.

Condition 3 requires the applicant to 'adhere to the timetable for restoration of the buildings as set out in the outline development programme (ODP dated 6th August 2012) unless otherwise agreed in writing with the LPA'.

Condition 4 required (inter alia) the submission and approval of a detailed delivery programme (based on the ODP) for this phase of the scheme which identified key stages in the restoration of the buildings and grounds and provided a timetable for delivery of the whole project.

The condition was imposed to ensure that the scheme is delivered in its entirety, in an appropriate manner and in a time frame that will secure the future of the listed buildings on the site.

The information to discharge these conditions was included in a revised Outline Development Programme (ODP) which sought to change the time frame and mechanism for delivery.

The executive summary of that report is appended which explains the key alterations to the ODP and its deficiencies.

In summary, concerns related to:

- i) The extended time frame for delivery.
- ii) The change in the delivery strategy whereby the capital receipt anticipated from the disposal of the enabling plots would not be delivered upfront but on a more piecemeal basis.
- iii) The reliability of the financial appraisal of the project included in the IVA (Independent Viability Assessment) which underpinned the decision to approve the applications given the increased restoration costs and erosion of the Fernham receipt. Whether this would lead to a need for additional enabling development to meet an increased conservation deficit is a critical issue from the LPA's perspective

Officers had recommended that the information submitted to discharge these conditions should be refused because it failed to ensure that the scheme would be delivered in its entirety in an appropriate manner and in a time frame that would secure the future of the listed buildings on the site and it would also fail to ensure that the Mansion, Rotunda, Stables and Banqueting Hall are restored in line with agreed details and their future secured as part of the hotel complex.

In addressing Members at the meeting of the DMC on 9th February 2016, the applicant raised a series of points that he wished to be taken on board. In summary these were:

- i) That protective works would be carried out sooner than anticipated in the original ODP
- ii) That the implementation of the enabling development themselves rather than through upfront disposal would deliver a greater profit that could be directly invested in the restoration of the listed buildings
- iii) That only £3.5m would have been available in the form of a 'bond' due to the need to extract fees and the costs of relocating the bowling club from the anticipated £5m enabling pot.
- iv) That greater monies have been committed to the project than anticipated in the original ODP.

The applicants also agreed to consider two key items which they had previously been reluctant to do.

These were the use of a joint account or replacement 'bond' to provide a similar

level of security regarding the delivery of restoration works to that delivered via the 'upfront' capital receipt and to rerun the IVA to examine the financial robustness of the project and whether its delivery was feasible given the increase in costs and the erosion of the Fernham receipt.

On that basis, Members agreed to defer the decision for a period of one month to allow these two factors to be explored and whether any greater security about delivery of the restored buildings and grounds could be achieved.

Discussions were held with the applicant immediately following the DMC decision. Agreement has not been reached about the form that a replacement 'bond' could take although some progress was made.

It was agreed that the consultant who carried out the original IVA should be used to carry out the reappraisal. However, due to holiday arrangements it has not been possible to carry this out in the time frame Members requested. A meeting has been set up for the 9th March to establish terms of reference and to take this forward. It will also enable the claims of increased investment to be properly analysed.

In view of this, Members are requested to allow a period of a further 2 months for this assessment to be carried out and for further discussion regarding the options around securing delivery of this project.

Recommendation

A further 2 months be allowed for a reappraisal of the IVA to be carried out and for further discussion regarding the options around securing delivery of this project.

Statutory Determination Period

These applications were submitted on the 18th August should have been determined by the 14th October. The delay is due to ongoing negotiations.

Site Details

Oldway Mansion is a Grade II* listed building formerly used as Council offices. The Rotunda and Stables are Grade II listed and in an extremely poor state of repair. All are currently vacant. They are set within a Grade II entry in the Register of Parks and Gardens. The site has the benefit of a series of related planning and listed building consents designed to achieve restoration of the buildings and grounds for hotel purposes.

Detailed Proposals

These are applications to discharge various conditions in relation to the planning and listed building consents for the change of use of Oldway Mansion and the Rotunda from Council Offices to a Hotel with ancillary conference and spa facilities.

CN/2015/0081 relates to the discharge of conditions 3, 4, 8, 10, 11, 12, 13 and 14 pursuant to P/2011/1020/PA

CN/2015/0100 relates to the discharge of conditions 4 5 7 8 and 9 pursuant to P/2011/1021/LB.

Conditions 3 and 4 in relation to P/2011/1020 and condition 4 in relation to P/2011/1021 are of particular significance in terms of delivery of the project.

The remaining conditions are of a more technical nature and information sufficient to satisfy these has been submitted. These could be discharged under delegated powers as they do not go to the heart of the permission. The development could not however proceed unless all relevant pre commencement conditions are formally discharged.

Summary Of Consultation Responses

Historic England Has been consulted and a response is awaited.

Summary Of Representations

None.

Relevant Planning History

A scheme to deliver a Hotel and Spa in the Mansion, Rotunda and Stables funded by residential development within the grounds was approved by DMC in April 2012. The planning permissions were issued on the 24th August 2012.

Planning and Listed building applications to achieve this are:

P/2011/1020: Change of use of Oldway Mansion and Rotunda to hotel with ancillary conference and spa facilities. Approved: 24.08.12.

P/2011/1021: Listed building consent in relation to the above. Approved by Secretary of State: 10.10.12.

P/2012/1011: Change of use and restoration of Stables to hotel use: Approved 24.10.12

P/2012/1012: Listed building consent in relation to the above. Approved by Secretary of State: 11.12.12.

P/2011/0925: Development within the grounds of Oldway Mansion to provide 46 3 and 4 bed houses, new 4 rink bowling centre, reconfiguration of 6 tennis courts, new public car parking, restoration of historic gardens and landscape, construction of 55 sheltered units. Approved 12.09.12

Key Issues/Material Considerations

The key issue is whether the information submitted to discharge conditions 3 and 4 of permission P/2011/1020/PA and condition 4 of permission P/2011/1021/LB which relates to the submission of a revised outline delivery programme (ODP) for the project as a whole delivers adequate confidence about delivery of the restoration package for the Mansion, Rotunda and Stables.

These conditions were of significance in Members reaching a determination on the parent applications. They tied implementation of the scheme to the timetable and delivery strategy embodied in Development Agreement between the Council as landowner and the applicant.

For this reason it is considered appropriate that any changes to the ODP and the implications this has in relation to delivery are considered and determined by Development Management Committee.

Background

In 2007 an informal brief was published to provide guidance about the options for securing investment in the site. This suggested hotel development in the key listed buildings with limited residential development within the Registered Park and Garden to fund restoration of the declining heritage asset.

Separate planning and listed building applications were submitted in August 2011 in relation to the change of use of the main buildings to a hotel complex and the inclusion of residential development in the wider grounds. The applications were agreed in principle by DMC in April 2012.

The residential development within the Registered Park and Garden comprised 'enabling development' and was only approved on the basis that it was necessary to secure the restoration of the Mansion, Rotunda, Stables and grounds.

The enabling development comprised the development of Fernham to provide 55 sheltered units, which is now complete, and within the grounds, the provision of 46 dwellings in the less sensitive parts of the Registered Park and Garden. These are Zones C/D adjacent to Oldway Road and Zones A on the site of the Indoor Bowling Club.

The scheme was required to meet the key tests in Historic England's document 'Enabling Development and the Conservation of Significant Places' (2008). This requires that:

- The 'achievement of the heritage objective is securely and enforceably linked' to the enabling development so that delivery is guaranteed and the LPA is not left in a position where the enabling development is built out but the benefits it was approved to pay for are not secured. This can be done through a S106

agreement, use of a bond or through the use of conditions related to phasing agreements or triggers on occupation.

- The enabling development also has to be shown to be the minimum needed to secure the restoration of the heritage asset. This requires a detailed financial assessment of the costs of restoration balanced against the value of the project to ensure that whilst it is indeed the minimum required to secure the heritage asset there is sufficient value to ensure that the project in its entirety can be delivered and the LPA won't be faced with demands for additional development to fund increased costs. This was confirmed through an Independent Viability Assessment (IVA) and Members were briefed accordingly.

When the decision was made to approve the development on the site, there was an Outline Development Programme (ODP) which was embedded in the Development Agreement between the Council as landowner and the applicant. This was considered to meet these key tests and to provide adequate security about delivery of the project.

In summary, it secured the timely restoration of the buildings against a defined timetable and crucially secured an upfront capital receipt of £5m from disposals of the residential plots to be placed in a jointly managed account. It was sufficient to cover about 2/3rds of the estimated costs of restoring all the listed buildings and about half of the cost of the overall project. This acted like a bond and provided security about delivery of the scheme. It meant that the construction of enabling development could not commence until the money to fund restoration was delivered to the joint account and that necessary restoration works to the listed buildings could commence quickly.

1. The use of conditions to secure delivery of the wider project

Historic England's guidance in relation to enabling development recommends that assets should be repaired before the enabling development commences or the funds necessary to do so deposited as a bond. In this case, the bond was to be secured via the Development Agreement.

Phasing conditions were therefore applied to all the permissions in relation to the site to tie them together and to ensure that the scheme was delivered in accordance with the approved site-wide ODP and that any changes to it would have to be agreed with the LPA in writing.

A pre commencement phasing condition applied to the residential development (P/2011/0925) was not discharged in advance of works commencing in respect of the sheltered flats on Fernham. It was not considered that enforcement action should be taken as commencement was broadly in line with the ODP. The funding derived from the sale of the site was secured and it did not appear that there was any demonstrable harm arising.

However, no further development on the site can proceed without this condition being discharged in view of the changes now proposed to the ODP. A condition was also imposed on all relevant consents to secure weatherproofing of the Stables within a defined time frame as this was the most at risk of the buildings. These weatherproofing works have not been commenced.

The applicants have not sought to challenge the conditions attached to the last planning permissions and listed building consent. The opportunity for challenge of those conditions has long since passed. It can be concluded that the applicants considered the conditions to be reasonable and acceptable.

2. Phasing Conditions in relation to the applications for change of use of the Mansion, Rotunda and Stables to hotel use

The relevant 'phasing' conditions in relation to the applications for conversion of the Mansion, Rotunda and Stables to Hotel use are numbers 3 and 4 pursuant to P/2011/1020/PA and number 4 in relation to P/2011/1021/LB.

For information, the specific wording of the conditions and the reasons for imposing them is provided at Appendix A.

These applications involve a revised timetable and delivery strategy for implementation of the project and additional information to satisfy the Conservation Management Plan. This proposed approach changes significantly the anticipated guarantees around delivery.

Information to discharge these conditions was submitted days before the applications became time expired despite many requests to the applicants to address the matter, since it became apparent that timetables were not capable of being met.

Immediately following submission, works were carried out on site with the intention of preserving the permissions in relation to the future use of the Mansion, Rotunda and Stables in perpetuity.

If the pre commencement conditions are discharged, this could retrospectively legitimise the alleged start. This would need to be established via a Certificate Of Lawful Development.

If the LPA is unable to discharge the conditions, the applications to change the use of the Mansion to a hotel will become time expired, if the acceptability of these applications is not subsequently secured through a planning appeal.

3. Why changes to the Phasing Conditions require careful consideration

The phasing conditions are important as they tie restoration of the heritage asset to the ODP. It is necessary to critically assess whether the revised phasing strategy delivers similar guarantees about securing restoration.

Condition 3 required the applicant to 'adhere to the timetable for restoration of the buildings as set out in the outline development programme (6th August 2012) unless otherwise agreed in writing with the LPA'.

Condition 4 required (inter alia) a detailed delivery programme (based on the ODP) for this phase of the scheme which identified key stages in the restoration of the buildings and grounds and provided a timetable for delivery of the whole project.

This information is required, as explained in the reason accompanying the condition, to ensure that the scheme is delivered in its entirety, in an appropriate manner and in a time frame that will secure the future of the listed buildings on the site.

4. How does the Revised ODP compare to that referred to in the relevant conditions?

The revised ODP is of concern because it does not deliver the restoration of the Mansion, Rotunda, Stables and grounds in the time frame originally set out when permission was granted and there have been fundamental changes to the delivery strategy and financial position the decisions were predicated upon.

These matters have to be taken into account in dealing with conditions that seek approval for an alternative programme of works.

A. Changes to Timeframe

In terms of time frame, the 'approved' ODP indicated that leases would be drawn down on the residential enabling development in January 2013 so the sites could be disposed of to realise funds for the works to commence on the restoration of the listed buildings.

Contractors would be appointed in April 2013 to start work on the Mansion in July 2013 and the Rotunda in October 2013 with completion in October 2014. The position in relation to the Stables was complicated by the need for bat surveys but a condition was imposed to ensure that the hotel use could not commence in the Mansion and Rotunda until the restoration of the Stables (for purposes ancillary to the hotel) was substantially complete.

The revised ODP, leaving the future of the Stables unresolved, would be at variance with the requirements of this condition.

There has been a significant delay in the start of the works. The update to the Conditions Survey 2014 (submitted to satisfy in part the requirements of condition 4) shows that this has led to a substantial increase in the number of defects in all of the listed buildings. This has increased restoration costs by 26% and any further delay in urgent repairs will exacerbate this.

The revised ODP which originally accompanied this application, involved a

significantly extended time frame for delivery and the implementation of 'priority works' to the Mansion only (the Rotunda and Stables were to be mothballed).

These 'priority works' comprise a detailed schedule of remedial works.

Further, these works were only to be completed when the 'enabling development' in Zones C/D and A within the gardens was constructed and available for sale. This introduced an unacceptable delay to necessary protective works being carried out and carried a risk that the houses could be built without any works carried out to secure the future of the listed buildings.

Following several months of discussions the revised ODP has been amended to secure the implementation of all the 'priority works' to the Mansion prior to the sales of the first tranche of enabling development in Zones C/D (providing 22 homes) along with undefined protective works to the Rotunda and a contract for weatherproofing the Stables.

Whilst this is an improvement on what was originally submitted, it is all that can be guaranteed through the revised ODP. This revision explains that the works to convert the Mansion to a hotel will rely on the sales of residential dwellings comprised within zones C/D and A along with possibly quite substantial loans. The works to restore/convert the Rotunda and Stables will rely on mortgaging the hotel when complete. The Applicant is not able to provide guarantees regarding the availability of this additional funding. This provides considerably less certainty than before that the listed buildings and Registered Garden will be repaired and renovated and as such fails to meet both the Council's planning requirements and Historic England's enabling development requirements.

It should be noted that when the decision to approve the scheme was granted in 2012 a significant proportion of the 'priority works, were considered unnecessary, except in relation to the Stables. The listed buildings are now more 'at risk' than before and the 'priority works' are now all necessary, which is a key consideration.

Whilst the improvements negotiated to the revised ODP will ensure that the remedial works to the Mansion might at least begin more promptly, that has to be balanced against the increased uncertainties over delivery of the whole project.

B. Changes to Development Strategy.

Much of the concern regarding delivery stems from the proposed changes to the development strategy. The approved ODP involved the upfront disposal of the enabling development to third party developer which would have secured substantial capital receipts of around £5m to be held in a jointly managed bank account. This would have acted as a 'bond' to secure delivery. It meant that enabling development could not commence until the money was secured and it would have allowed works to proceed quickly on protective works and towards

delivering a restored Mansion, Rotunda and Stables. Prompt delivery is an important factor in dealing with remedial works to listed buildings, especially buildings of the quality of Oldway Mansion.

Whilst additional funding would have been needed to complete the overall project, the Independent Viability Appraisal (IVA) indicated that a significant proportion of the costs of restoration of the listed buildings would have been covered by the size of this receipt and having this 'banked' makes raising additional funding if required a less risky proposition.

The approach to delivery embodied in the approved ODP was validated through the IVA.

The revised ODP effectively deletes the bond as the applicants have decided to develop the housing plots themselves rather than dispose of them 'upfront'. This results in a significant delay in achieving any capital receipt as the funding is reliant on individual sales of completed dwellings. The link that existed between the enabling development and the prompt implementation of restoration works to the historic buildings is thus seriously weakened.

C. Changes to the Financial Position.

The financial position in relation to the Oldway development is also relevant because condition 4 was imposed "To ensure the scheme is delivered in its entirety, in an appropriate manner and in a time frame that will secure the future of the listed buildings on the site".

If the proposed development programme does not contain sufficient safeguards to ensure that restoration works are delivered promptly, the LPA has no assurance that delays will not lead to further increases in costs which could lead to a failure to complete the renovation works or pressure for additional dwellings on the site.

The factors which informed the IVA in 2012 have, as a result of the matters described earlier in this report changed, these are rising costs, further deterioration in the buildings and the fact that approximately £1.3 million of the £2.1 million secured from the sale of Fernham has been spent on fees. The IVA, which thoroughly assessed all development costs indicated that only £1.2 million was needed to cover the fee requirements for the entire project.

Historic England only recommended support for the scheme on the basis that the IVA confirmed the level of enabling development was the minimum needed to achieve the stated goal of restoration and was based on realistic and achievable financial modelling. Whilst this was demonstrably the case in 2012, and substantially underpinned Members' decision to support the scheme, confidence in its conclusions can no longer be assured given now many of the inputs to the assessment have changed.

In view of this, it is considered that the IVA should be re assessed to ensure that Historic England's enabling development tests can still be met and particularly that no further development will be required to fund the increased scale and costs of restoration works. The applicants question the need for this and have not confirmed they will cover the cost of such work (as is necessary to meet the Council's policy on viability assessment work).

5. Other matters

The timing of restoration of the grounds, as required by the phasing condition is not addressed other than being carried out in 'pockets of relevance' which is as described in the original applications.

The overall scheme for the conversion of Oldway to hotel use included a range of other requirements which formed part of the ODP such as replacement registry office, café, and tennis courts, restoration of the Grotto /historic gardens and new car parking. These matters are not addressed as part of this submission other than by reference to dates.

There are no particular planning reasons to insist on guarantees regarding delivery of the Registry office, tennis courts or café. However the issue of delivery around the historic garden and grotto is very much of concern.

6. Is there a way forward?

It was made clear to the applicants that for a revised ODP to be acceptable there needed to be a greater interleaving between the implementation of the enabling development and the delivery of the restored Mansion, Rotunda and Stables for hotel use and that this needed to be related to defined enforceable triggers rather than on a phasing programme that relied largely on dates.

There is no means of enforcing compliance unless key outcomes are tied to restrictions on occupation, sales, letting of contracts or there is a bond available to the LPA to effectively mitigate any default.

The applicants have been advised what key outcomes are essential and how these can be tied to defined stages in the implementation of the enabling development. Whilst some suggestions have been taken on board, such as completion of specified protective works prior to any sales of the new housing, this still provides no surety over the delivery of the hotel or the future of the Rotunda or Stables beyond a series of anticipated dates and hoped for outcomes.

The applicants do not appear to understand the Council's reservations, as expressed by officers, about securing delivery against dates as the previous ODP was partly reliant on a time frame for implementation.

They find it difficult to understand why a more robust stance should be taken

now. There are three reasons for the LPA's stance.

Firstly, and most importantly, the approved ODP secured a substantial upfront capital receipt, nearly half of the necessary funding for the entire project and a significant proportion of the restoration costs of the listed buildings as confirmed by an IVA. It provides confidence that the scheme will deliver. In the absence of this comfort, it is necessary to be more vigilant over delivery and to try and secure a similar outcome by alternative means.

Secondly, the implications of relying heavily on an unenforceable timetable are now apparent from the current position on the site. The Development Agreement (through which the Council as landlord could exercise control) cannot now, for various legal reasons, be relied on.

Finally, the applicants have been advised that it would be useful to have a comparable understanding of the financial capacity of the scheme through a re run of the IVA given the changes in circumstances. The applicant is reluctant to engage in this.

However, discussions have now stalled and there is a need to reach a determination on the matter given the lapse in time since submission of the details and lack of progress in negotiations.

7. Conclusion

Officers have secured improvements to the revised ODP which will ensure that all the 'Priority Works' are carried out prior to the sales of the first tranche (22 houses) of enabling development.

However against this has to be balanced the fact that it is only these works that can be guaranteed and conversion works to deliver the hotel use are not secured. The future of the Rotunda and Stables is also uncertain. As it was the rescue of these particularly at-risk buildings that underpinned the original approval this is clearly a retrograde position to be in. The delivery of restoration of the gardens is similarly unresolved.

The applicants will argue that the original ODP did not fully guarantee these matters however the availability of a substantial bond up front provided a significant degree of comfort.

This contrasts sharply with the position should the revised ODP be accepted. If this was approved the speed and certainty of delivery would be reduced; the link between the enabling development and delivery of the restored historic buildings would be eroded and the more dubious viability and uncertainty regarding funding sources could expose the Council to a risk of pressure for more enabling development to prop up the project at a later date.

These concerns could be mitigated by the applicants agreeing to a greater degree of interleaving between the restoration of the heritage asset (buildings and grounds) and the implementation of the enabling development and exposing the revised financial components of the scheme to a re-run of the IVA.

This was pivotal in informing Members views in relation to the original approval and any changes to costs, values or the development strategy to be used should be subject to a similar level of scrutiny.

The options available to Members are to:

- Defer the decision on the matter and the applicant be asked to provide more comfort regarding delivery. It is however unlikely to produce a change in the outcome.
- Refuse the application for reasons relating to uncertainty about delivery of the project. However due to the timing of these submissions the applications for planning permission and listed building consent would become time expired unless the matter was subsequently approved on appeal. This has ramifications for the project as a whole.

Recommendation

Officers advise that the information submitted to discharge Conditions 3 and 4 pursuant to P/2011/1020 and condition 4 pursuant to P/2011/1021 in the form of a revised ODP should be refused because it fails to ensure that the scheme is delivered in its entirety in an appropriate manner and in a time frame that will secure the future of the listed buildings on the site and it fails to ensure that the Mansion, Rotunda, Stables and Banqueting Hall are restored in line with agreed details and their future secured as part of the hotel complex in line with policies HE1 and SS10 of the Adopted Torbay Local Plan.

Relevant Policies

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Agenda Item 7

Application Number

P/2015/1126

Site Address

Land West Of Brixham Road
Paignton

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development.

Executive Summary/Key Outcomes

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete.

The application site has been split in to two parts, the larger part of the site is to the west of Waddeton Road and south of Moor View Industrial Estate and the smaller part is to the west of Brixham Road. The site that separates these two parts is currently under construction under reference P/2013/1229.

The application that is subject to this report is for reserved matters for the appearance, landscaping, layout and scale of 217 dwellings and the associated internal highway network, open space and landscaping. This application accommodates a higher proportion of two bedroom units over the previously approved reserved matters applications. The access arrangements to both parts of the site remains the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

A further full application for an additional 44 dwellings is subject to a separate application. For clarity these are shown on the plans but have not been considered as part of this application.

The increase in density that would result from this revision of the residential layout on the site would result in a form of development that fails to meet the objectives of the NPPF and Policies SS11, H1, DE1 and DE3 in the Torbay Local Plan, which seek to provide a high quality of development that provides a good standard of amenity for future occupiers. The proposal would result in an overdevelopment of the site. There are a number of clear indicators of overdevelopment, leading to a poor quality development, including:

- o Inadequate provision of off-street parking (leading to increased on-street parking and a car dominant development);
- o Remote parking in relation to proposed homes;
- o The close proximity of dwellings to hedgerows and the reduced quality of proposed landscaping;
- o The poor quality residential environment as a result of the separation distances between dwellings.

Recommendation

Refusal (reasons at end of report)

Statutory Determination Period

13 weeks, the determination date was the 20th February 2016 however this has been exceeded to allow for officer negotiations and revised plans to be submitted.

Site Details

Outline consent was granted in April 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197 and subsequent reserved matters applications were approved under references P/2013/1229 and P/2014/0071. The application site relates to the eastern bowl of the wider White Rock site and is largely grassed scrubland. Part of the wider site is under construction under the approved reserved matters scheme P/2013/1229 with a number of homes complete.

The application site has been split in to two parts, the larger part of the site is to the west of Waddeton Road and south of Moor View Industrial Estate and the smaller part is to the west of Brixham Road. The site that separates these two parts is currently under construction under reference P/2013/1229. To the south of both sites is open countryside which forms part of the Off Site Landscape and Ecology Management Plan, including tree planting and a woodland walk.

Detailed Proposals

The proposal is to construct 217 dwellings, a mixture of detached, semi detached and terrace dwellings and apartments of which 20% are affordable and open space provision.

The application represents a revised proposal for 217 of the 350 dwellings approved at outline stage. This application accommodates a higher proportion of two bedroom units over the previously approved reserved matters applications. The access arrangements to both parts of the site remains the same as previously approved with access via Brixham Road which connects to a central roundabout on to Waddeton Road and Long Road.

As with the approved scheme reserved matters applications for this site, the

proposal has been broken down in to three character areas:

The 'Neighbourhood Core' is the main frontage of the development onto the primary street and local centre. The development within this element is a dense form of development composed of terraced three storey dwellings.

The 'Residential Core' forms the majority of the site includes a range of secondary streets. This area is made up of a combination of two storey terraces, semi-detached and detached properties.

The 'Countryside Edge' is located around the perimeter of the site and many of the dwellings within this section being detached however there are also examples of detached and terrace dwellings.

The density of the application site is approximately 33 dwellings per hectare with this ranging from 28 dwellings per hectare within the 'Countryside Edge' character area to 75 dwellings per hectare within the 'Neighbourhood Core'.

Excluding apartments which have a 1:1 parking ratio, there are 35 dwellings on the site which have only 1 parking space which amounts to approximately 19% of dwelling houses with 1 parking space.

The proposals include some on-site landscaping and open space provision.

The current proposal has been screened in terms of the need for an Environmental Impact Assessment and determined that an EIA is not required.

Summary Of Consultation Responses

Arboricultural Officer: Comparative study across both applications indicates tree numbers may be similar, however there is no schedule to confirm this. Plans supporting P/2013/1229, specifically 'On plot landscaping plans 1-7 of 7 40200_LP(90)_213 Rev E' formed the conclusion of a series of meetings between the L.A. and agents for the applicant and were considered to offer a balanced compromise between the amenities of the new residents and public realm areas and softening and landscape integration from external view receptors. Tree species have been largely varied from the negotiated plans noted above to smaller and/ or more columnar narrow type trees, presumably in recognition of the denser layout and increased unit numbers. The overall effect is to lessen the positive attributes that would be delivered from the arboricultural features on site and leave a tree population of smaller sized and reduced life span that would not offer long term desired benefits either internally or when viewed externally. Key junctions and principal roads were proposed to include more large sized trees, where now the use of more columnar tree form is proposed. The eastern edge of the site abutting Brixham Road proposes only 3 columnar trees of limited visual impact planted in grass. This location is an opportunity to enhance the arrival at the site but to also offer a sense of enclose

to residents of these units. I would suggest this curtilage requires detailed further consideration in tree planting and landscape terms. It is recommended that the scheme, now varied from the previous submission has by virtue of the increased numbers of units reduced the visual efficacy of the softening internal landscaping, substituting narrow trees from large or wider canopied trees will prevent the site achieving visual 'maturity' on a landscape basis detrimental to the amenities of the new development and its residents and visitors. These comments apply generally across the site but bear more weight at principal road junctions and boundaries shared with the AONB and Brixham Road.

Further comments from the Arboricultural Officer are expected in relation to the revised plans which have been submitted to attempt to overcome the concerns noted within the original consultation response above.

Senior Strategy and Project Officer: From a number of site visits in the area, the developments to have been completed in the vicinity do appear to have a shortage of off road car parking, resulting in vehicles parked in the roads and pavements. It is agreed that in this out of centre location a minimum of two parking spaces plus space for two cycles should be provided, in accordance with Policy TA3 and Appendix G of the new Adopted Local Plan. If in garages, please can you ensure that these meet the size requirements in the note to Appendix G (i.e. 3.3m x 6m).

It is not satisfactory for cars to have to reverse significant distances to get into the allotted parking spaces (units 77, 378,379). It is also agreed that locating parking away from the dwellings is likely to result in on-street parking. This is particularly the issue with the parking court for 37-52 but also for 53-57 and 140-144.

Police Architectural Liaison Officer: Recommendations made in relation to Building Regulations - Approved Document Q - Security and Secured By Design.

Green Infrastructure Co-ordinator: The Public Open Space provided is in accordance with the indicative layout approved at outline stage, and that approved through the previous reserved matters application (P/2013/1229), and thus the principle is accepted. The Design Statement states that around 20 allotment spaces (4 within the Ridge Park area outside of this application) will be provided and also refers to orchard planting in this area (section 4.10). Drawing 151102 L 02 03 appears to show 21 allotments within the red line for this application and an additional 5 plots within the Ridge Park area. The orchard planting does not appear to be shown on the submitted plans.

Further information regarding the allotment area is required prior to determination including:

- o Confirmation regarding the number of allotment plots to be provided.
- o How the allotment area will be laid out prior to residents taking on plots for

- cultivation.
- o Details regarding the proposed orchard planting (location, proposed species, tree sizes, numbers/densities and planting methods).

It is noted that on-going management of the allotment and orchard planting (as well as other on-site landscape and ecological features) is provided through the on-site LEMP secured through the discharge of condition 10 of the outline application. It is suggested that an informative is added to any planning approval noting that the development must be carried out in strict accordance with both the on and off site LEMPs. It should be noted that Torbay Council is currently in discussion with Linden Homes regarding progress with the LEMP works.

The Design Statement states that "The Locally Equipped Areas for Play (LEAP) within the POS are to be detailed and delivered by Torbay Council". Whilst Torbay Council's Natural Environment Services team are happy with this approach, a suitable financial contribution for both capital (development of design and purchase of equipment) and revenue will need to be agreed and secured through a supplementary s106 agreement if this is the case. This will need to be agreed prior to determination; James Nicholas and Neil Coish should be contacted in this regard.

As for the previous reserved matters application (P/2013/1229), a condition should be secured to ensure that there is no form of external lighting on the elevations facing hedgerows along the southern boundary (plots 371 - 378 and plots 391 and 392) and along Waddeton Road (plots 169, 170, 370) to avoid adverse impacts on bats.

Natural England: No objection in terms of statutory nature conservation site, Natural England advises that the proposal is unlikely to affect any statutorily protected sites. Natural England does not wish to comment on this development proposal in relation to protected landscapes however advises that the South Devon AONB unit may wish to comment. The application has not been assessed in relation to the impacts on protected species.

Environment Agency: The site is Flood Zone 1 and sites in the Critical Drainage Area are dealt with by standing advice.

Landscape Consultant: Of particular relevance to the consideration of this application are the approved off-site landscape mitigation/enhancement works (LEMP secured by S106) which includes significant belts of woodland planting on land to the south, including a belt (around 25m wide) immediately south of the southern boundary. This planting will provide a strong landscape buffer between the development and undeveloped countryside to the south. Therefore, planting within the site is primarily to contribute to the internal character/sense of place of the site and the amenity of residents, as opposed to the assimilation of the development within its wider context.

The outline application included a house typology schedule (Dunmarino Associates dwg. no 13009 HTP 01 Rev. J). This indicated detached houses on the southern edge of the site. The proposals show a mix of detached and semi-detached houses resulting in an increase in housing density on this boundary. Whilst this would have a slight effect on the visual permeability of the development in more immediate views this is not considered to be a particular issue of concern given the structural planting proposed to the south which will contain the site in time.

Of particular concern is the very close relationship of buildings in plots 169, 170, 370-371, 390 and 391 to the existing boundary hedge. There appears to be a high likelihood of damage to occur to the hedge and associated rooting area (reference to any submitted Arboricultural Assessment should identify the minimum root protection area for this hedge), when taking account of working areas required for construction. Buildings in plots 170, 370-371 are also, by virtue of their proximity to the hedge, to be readily apparent rising above in views from Waddeton Road. It is recommended that further consideration of the proposals is required to address these issues.

The houses in plot 391 and 392 are very close to the hedge and likely to result in shading to the south elevation as the hedge and off site planting develops, resulting in pressure to cut back. It is recommended that the design of these plots is reconsidered

How is the boundary hedge to be protected? The hedge should be retained in single ownership to ensure it is managed in a consistent and appropriate manner. How is it to be accessed for management purposes?

The internal landscape proposals appear to have been 'watered down' considerably from the detailed landscape plans provided by Stride Treglown (although we are unclear about the status of these plans and whether they have been approved previously). The proposals now (as shown on Clifton Emery Design dwg no 151102 L 08 01) show very little landscape variation with the principal focus on hedge planting (laurel and hornbeam) to the boundaries of front gardens throughout the scheme and scattered tree planting. The previous Stride Treglown (ST) drawings showed greater variation in treatment which is desirable. Overall therefore the current proposals appear to be a significant 'step back' in terms of the creation of a more varied, interesting external environment and sense of place. It seems entirely reasonable (and depending upon the status of earlier ST drawings) to require the approach to be reconsidered.

There is no indication that details have been provided indicating proposed plant sizes, densities and outline soft landscape specification. This should be checked and, if not provided as part of the application, It is recommended that this information should be requested pre-determination.

Tree species:

- o Prunus avium 'Plena' is shallow rooting and may cause future problems with disruption of hard surfaces.
- o Betula pendula can be brittle with age and their incorporation in the scheme needs to be considered carefully. Their mature stature, relative to their location on the southern side of plots 177-181, may result in their future removal by householders. The inclusion of some trees on the southern side of this street would be desirable and give a more varied street scene.
- o We recommend that confirmation is obtained that the location of trees relative to services has been considered and that trees proposed can actually be achieved.
- o Some trees are located very close to buildings and confirmation should be obtained that these are practical relative to adjoining foundations (as NHBC guidelines).

It is recommended that any areas proposed to be offered for adoption by the Council are identified at this stage to allow further consideration on their acceptability.

Affordable Housing Delivery Officer: Comments awaited.

Senior Design and Heritage Officer: Comments awaited in relation to the Building for Life Assessment.

South Devon AONB Manager: Comments awaited.

South Hams District Council: No comments received.

Summary Of Representations

1 representation received. Issues raised:

- o Removal of facilities - the outline application proposed A1/A3 uses which have not been included in this application
- o Overdevelopment - the development is dense and does not provide facilities
- o Impact on local area - pressure on services, highway, wildlife and employment
- o Contrary to local and national policies - the proposal does not take in to account the need to consider employment opportunities of the occupants of the housing and therefore occupants will travel outside of the Bay.

Relevant Planning History

P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development APPROVED

P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 APPROVED

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2015/1061 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 PENDING CONSIDERATION subject to the outcome of this application

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated dwelling - THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2011 DO NOT MAKE PROVISION FOR PUBLIC COMMENT ON REQUESTS FOR SCREENING/SCOPING OPINIONS EIA NOT REQUIRED

P/2016/0094 Erection of 44 dwellings and associated infrastructure PENDING CONSIDERATION

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to a sports pavilion PENDING CONSIDERATION
(Variation of condition P1 of P/2014/0071)

Key Issues/Material Considerations

The key issues to consider are the principle of development, appearance, scale, layout and highways matters, parking, waste and recycling facilities and residential amenity.

Principle:

Outline consent has been granted for the mixed use development of the site. This application was approved subject to extensive consultation and was subject to Habitat Regulation Assessment and was accompanied by a detailed Environmental Statement. The principle of development was established by this application and subsequently two reserved matters applications were approved for the residential elements of the site.

This application is in accordance with the indicative layout and delivers affordable housing as set out within the section 106 agreement. The scheme provides 20% affordable housing across the two sites, a schedule of the tenure is awaited. Comments from the Delivery Officer on the level of affordable housing and the tenure are awaited and will be verbally presented to the Committee.

Condition 2 of the outline application required the scheme to score at least 8

'greens' when scored against Building for Life criteria. This assessment is ongoing and will need to take in to account the revised drawings submitted. The results of this assessment will be provided to the members at committee once complete.

Appearance:

There are various different house types across the two parts of the site, the majority of which are simple and contemporary in design with slate grey tiled pitched roofs, rendered or full bricked walls and upvc windows, doors and fascias. The house types are largely grouped into distinct areas in line with the different character areas. The majority of dwellings are rendered with subtle changes in render colour and feature brick panels and plinth to add interest. In the lower density areas of the site full brick dwellings have been included to define the character areas throughout the development. If approved it is recommended that a condition regarding the submission of details of external materials to ensure a high quality residential environment.

The appearance of the dwelling houses is considered acceptable and in keeping with the remainder of the approved residential scheme that is not subject to this reserved matters application.

Scale:

The visual impact of the development was a key factor of the outline application. This resulted in the location of the residential element of the scheme being contained within a 'bowl' in the landscape, with open amenity space to the east on the ridge. An off-site LEMP was produced which included extensive tree planting along the south of the site to help further screen the development particularly from the Stoke Gabriel and Galmpton Areas (South and West). An on site LEMP has also approved which helps provide further landscaping enhancements.

As was the case with the previously approved reserved matters applications, the tallest properties are limited to a particular character area ('Neighbourhood Core') helping to define the urban form. The remainder of the site is limited to two storeys. The scale of the development has increased with the increased density of the dwellings in order to provide additional two bedroom dwellings. As a result the features of the individual character areas approved as part of the original reserved matters applications, particularly those within the lower density areas of the site, have been weakened somewhat. The 'Countryside Edge' whilst still relatively spacious in comparison to the 'Neighbourhood' and 'Residential Core' areas, has become more dense with an increase in semi-detached and terrace dwelling arrangements. In comparison to that previously approved the quality of the scheme is considered to have weakened particularly within the 'Countryside Edge' character area. However the dwellings in this area continue to feature open intervals creating the feeling of space between built form and no more than approximately 16m of built form in a single stretch and in some cases garages

also allow for larger gaps to be maintained at first floor level. Within the 'Neighbourhood Core' and 'Residential Core' character areas the density has also increased with increased numbers of terraced dwellings. However in these areas, the character is of a higher density and therefore the level of built form is considered to sit much more comfortably and therefore the scale of physical development in these areas is considered acceptable.

The number of dwellings has increased and therefore so has the density. It is accepted that there is scope to increase the density of development on the site. However the resulting development needs to meet the objective of providing high quality living environment for all residents. A core planning principle in the NPPF is to "secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". This point is reiterated at para. 58 of the NPPF which states that decisions should aim to ensure that developments "create attractive and comfortable places to live, work and visit".

In this case the revision to the scale of development has implications for the quality of residential environment that will be created. As identified below the proposed changes result in a greater number of dwellings on the site with a car parking level that falls short of that required by Policy TA3 in the Torbay Local Plan. This shortfall is an indicator that the scale of development on the site is excessive resulting in the proposed layout failing to meet the objectives of Policy H1 and DE3 which seek to provide a good level of amenity for occupiers.

Layout and Highways Matters:

The principle access points to the development are from Long Road and Brixham Road. A new section of road is already in situ, enhancing Waddeton Road and including a roundabout with access in to the development site. As was the case with the previous reserved matters applications, the road layout within the scheme is focused on the provision of a number of principle access roads to sections of the development with cul-de-sacs leading off each route. With the exception of the private drives which adopt block paving and the key frontage on to the area of open space to the western edge of the larger part of the site, the roads are of a traditional design with asphalt roads and footways to one side. Highway bands with rumble strips are proposed at key junctions to encourage the reduction in speeds at these points.

The layout provides good permeability into the site with access routes through for both vehicles and pedestrians. The layout remains largely the same as previously approved in terms of the road layout and remains acceptable.

Parking:

The previously approved reserved matters schemes had a number of dwellings which only benefitted from one parking space. The percentage of dwellings with only one parking space approved as part of the original reserved matters schemes was 8%, on balance this was considered acceptable and in accordance

with policy at the time of decision with policy T25 of the Torbay Local Plan 1995-2011 (now superseded) noting parking requirements as maximum guidelines. The current scheme refers to only part of the wider residential development and 66 of the plots only benefit from one parking space, of these 66 plots 31 are apartments. This equates to 19% of dwelling house plots benefitting from only one parking space, each of these dwellings has a minimum of two bedrooms. Policy TA3 and the associated appendix G states that the Council will require appropriate provision of car, commercial vehicles and cycle parking spaces in all new development and that development proposals will be expected to meet the guideline requirements as set out in Appendix G. Appendix G states that dwelling houses will be expected to provide two parking spaces per dwelling unit and explains that in locations such as town centres where there is a greater choice of transport, this standard may be reduced. The application site is not within a town centre location and whilst there may be some services within walking distance of the development this is not extensive and due to the scale of the development one parking space per dwelling house for 19% of the dwelling house plots is likely to result in on-street parking issues. It is noted that a high portion of the dwelling houses which benefit from only space are located within the areas of the development which are subject to the highest density. In addition it is in these areas where there are also examples of remote parking which is also likely to result in occupiers parking vehicles on the street outside their dwelling houses rather than in parking courts located away from their dwelling houses.

The percentage of dwellings with only one parking space approved as part of the previous reserved matters application is a material consideration and has been considered as part of this recommendation. The current scheme exceeds this percentage and would not meet the policy requirement set out within policy TA3 and appendix G of the Torbay Local Plan 2012-2030. On balance having considered both the previously approved schemes that are capable of implementation and the current policy requirements, the reduced number of parking spaces is not considered acceptable. Whilst the overall parking ratio (excluding apartments) may be 1.9 spaces to every one dwelling, it is noted that this is in part skewed by the number of dwellings which benefit from more than 2 spaces and irrespective of this, the number of dwellings which only benefit from 1 parking space remains unacceptable.

The increased density of dwelling houses has limited the amount of space available for off road parking provision. At the current parking ratio, landscaping has helped to limit the impact of the parking on the wider street scene however additional parking provision as required to meet the requirements of policy TA3 and appendix G would be likely to result in streets dominated by off street parking provision to the front of dwelling houses. Similarly if the current parking ratio were to be pursued, the streets are also likely to become car dominated with an increased likelihood of on street parking by both occupiers and their visitors. A reduced density of development would enable a parking provision in line with

policy requirements without detriment to the overall character of the street however negotiations with the applicant indicate that this is not a route they wish to pursue. It is therefore concluded that the proposed development does not comply with Policy TA3 in the Torbay Local Plan.

Garages do fall short of the dimensions required by policy TA3 and appendix G of the Torbay Local Plan. However having considered the approved reserved matters schemes, on balance this is not on its own considered to warrant the refusal of the application as this would not result in a greater impact when compared against the approved scheme. This same consideration cannot be made when considered in terms of off road parking bays, as the percentage of dwellings with only one parking space is greater than that previously approved.

Each of the properties has access to the rear gardens to enable waste and cycle storage provision to be provided. Where properties don't benefit from rear gardens or garage provision separate cycle and waste provision is provided. All properties in the scheme are to have dedicated recycling and waste storage facilities and cycle stores as secured by condition 4 of the original outline consent.

Landscaping

As part of the outline application, off-site landscape mitigation and enhancement works (Landscape and Ecological Management Plan secured by S106) includes significant belts of woodland planting on land to the south, including a belt immediately south of the southern boundary. This planting will provide a strong landscape buffer between the development and undeveloped countryside to the south. The increased housing density is not considered to have a significant effect on the visual permeability of the development in light of the structural planting proposed to the south which will act to contain the site once established. In addition and in light of this structural planting the proposal is not considered to result in significantly greater impact in views from the AONB to the south or views from the South Hams. South Hams District Council and the South Devon AONB unit have been asked if they wish to comment, no comments have been received to date.

Officer negotiations have resulted in a revised landscaping scheme. Whilst formal comments are awaited from the Council's Arboricultural Officer it is understood that the revised scheme does accord with officer comments provided during the course of the application and will complement the development. Landscaping is proposed to break up the rows of parking provision and screen parking courts, the landscaping proposals help to soften the scheme and whilst the increased density has defined the level of landscaping proposed the overall landscaping proposals are considered acceptable on balance. Comments from the Arboricultural Officer will be verbally presented to the Committee. Within the consultation response from the Landscape Consultant, reference is made to several plots within the 'Countryside Edge' that are positioned in close proximity

to the existing hedgerow. Five of these plots are located in a closer position to the hedge on to Waddeton Lane than the previously approved reserved matters scheme. Further work is required on this area of the scheme for it to be acceptable. The applicant could consider measures to amend the position of these dwellings to improve this relationship and overcome this issue.

Comments from the Council's Green Infrastructure Officer are noted. The allotments have been omitted from this part of the wider outline application site and repositioned to the west of the red line boundary. Orchard planting has instead been included within the area previously noted as allotments. The Officer has been reconsulted on this change and any comments received will be presented to the Committee.

Residential Amenity

There are 217 new dwellings being provided within the scheme, this comprises:

2 one bed flats
28 two bed flats
58 two bed houses
85 three bed houses
42 four bed houses
2 two bed coach houses

There a good range of house sizes, the majority of the properties benefit from rear gardens with the exception of the apartments/flats and one of the coach houses. The sub-text to policy DE3 of the Torbay Local Plan 2012-2030 recommends 55sqm of private amenity space for dwelling houses and 10sqm for flats. Whilst the gardens sizes fall below this recommended guideline in some instances having considered the availability of public open space provided as part of the development on balance the level of private amenity space is considered acceptable. Similarly having considered the previously approved scheme it is considered that the dwellings are acceptable in terms of internal floor space and are largely well proportioned internally.

For the majority of plots the level of inter-visibility is limited due to the layout of the dwellings and separation distances. There is an exception where the separation distance is limited to 17m, this falls below what is generally recognised as an optimum separation distance to prevent inter-visibility between dwellings that are positioned back to back. The standard of residential amenity that would be achieved in this area falls below the level that would normally be expected and is another indicator that the density of development is excessive for this site. Further work is required on this area of the scheme for it to be acceptable. The applicant could consider measures to amend the floor plans of these dwellings, amend window positions to allow only off set views or include obscure glazing to limit the impact on this reduced separation distance, in order to overcome this issue.

As explained in earlier paragraphs the level of parking provision does not meet the requirements of policy TA3 and the associated appendix G. This would have an impact on the residential amenities enjoyed by the occupants of the development. A reduced density of dwellings would improve this situation.

Comments from the Police Architectural Liaison Officer are noted and have been reiterated to the applicants and included within the revised scheme as appropriate.

Conclusions

In conclusion, the submitted scheme fails to meet the objectives of Policies SS11, H1, DE1 and DE3 in the Torbay Local Plan to provide a high quality form of development with a good level of amenity for all residents. The proposal constitutes overdevelopment of the site by reason of the number of dwellings that would have a lower level of off street parking than is required by Policy TA3. This would inevitably result in a proliferation of on street parking, which would have a harmful effect on the character, quality and function of the area. The proposed form of development would detract from the residential amenities of occupants and is therefore considered contrary to Policies in the Torbay Local Plan and the NPPF and would be unacceptable.

Condition(s)/Reason(s)

01. The proposal would fail to deliver a high quality living environment or a good standard of amenity for future occupants in accordance with paragraph 17 of the National Planning Policy Framework and policies SS11, H1 and DE3 of the Torbay Local Plan 2012-2030. The proposal would constitute overdevelopment of the site and as a consequence, a lack of suitable parking provision for future occupants which would result in on street parking problems to the detriment of the overall quality and function of the area and the amenities of future occupants of the development. As such the proposal is contrary to paragraphs 17, 56, 58 and 64 of the National Planning Policy Framework and policies SS11, H1, DE3, TA3 and Appendix G of the Torbay Local Plan 2012-2030.

Relevant Policies

H1LFS - Applications for new homes_
SS11 - Sustainable Communities Strategy
DE1 - Design
DE3 - Development Amenity
DE2 - Building for life
C4 - Trees, hedgerows and natural landscape
SS8 - Natural Environment
TA3 - Parking requirements

Agenda Item 8

Application Number

P/2016/0038

Site Address

13 Esplanade Road
Paignton
TQ4 6EB

Case Officer

Carly Perkins

Ward

Roundham With Hyde

Description

Alterations and separation of Nos.12 & 13 (reinstatement of original separate properties) to form 11 bedroom hotel (No.12) and 7 Holiday Apartments (No.13). Single storey extension at rear to form Utility Room for No.12. (Removal of Condition 1 Ref: P/2013/1320 - Holiday Occupancy)

Executive Summary/Key Outcomes

The application site is a mid-terrace property on the western side of Esplanade Road (South). The site is within the Core Tourism Investment Area and Community Investment Area in the Torbay Local Plan 2012-2030. In 2013, an application was approved to allow the subdivision of the hotel at 12-13 Esplanade Road to form an eleven bedroom hotel (number 12) and seven holiday flats (number 13) under reference P/2013/1320. The current proposal (in part retrospective) is for the removal of condition 1 of planning application reference P/2013/1320 to allow for the unrestricted residential occupancy of the seven flats. The intention is for the flats to be occupied as supported living accommodation, the planning statement refers to the use of six flats as supported living accommodation and the seventh to be occupied as an office. Currently two flats are occupied in breach of the condition. The use of the seventh flat as an office would require an additional application and is not facilitated by the removal of condition 1 of P/2013/1320. Although a condition could be imposed to ensure that the flats were only used for applicant's stated purposes, it is considered that the detrimental effect on the CTIA would still be unacceptable in planning terms.

The proposal to remove condition 1 of application reference P/2013/1320 is considered contrary to policies TO1 and TO2 of the Torbay Local Plan 2012-2030 as it would result in the loss of holiday accommodation within a Core Tourism Investment Area, the proposal would not maintain or enhance the area designated for its tourism importance and would introduce a permanent residential use which would not be in keeping with the holiday character of the area and is therefore considered unacceptable. The Local Plan is very new and is supported by an up to date evidence base. Policies TO1 and TO2 were tested, during the Local Plan hearing, and not changed as a result. It would not

be prudent to allow this development, which is contrary to policies TO1 and TO2, as it would set an unfavourable precedent for similar proposals in other parts of Torbay.

In addition the proposal would result in seven small residential flats within a Community Investment Area, an area that has been designated due to the level of deprivation evident in these areas. The provision of these flats would not support a balanced community and would be likely to perpetuate the level of disadvantage within this area through the provision of small flats which would be unlikely to provide a good standard of living for future occupants contrary to policy SS11 and DE3 Whilst the Local Plan (policy SS11 and supporting text) indicates that open market housing, to support investment in Community Investment Areas, might be appropriate, this has to be balanced – in this case - against loss of holiday accommodation in a Tourism Investment Area.

The proposal would not support the aims of policy TO1 and TO2 which aim to maintain and enhance Torbay's tourism offer.

Recommendation

Refusal (reasons at end of report).

Statutory Determination Period

8 weeks, the determination date is the 11th March 2016. This date has been exceeded to allow the application to be considered and determined by the Development Management Committee.

Site Details

The application site is a mid-terrace property on the western side of Esplanade Road (South). The site is within the Core Tourism Investment Area and Community Investment Area in the Torbay Local Plan 2012-2030. The application site (12-13 Esplanade Road) was formerly the Orcades Hotel and has since been subdivided to form a hotel (number 12) and holiday flats (number 13). Whilst the physical works to subdivide the building were carried out they do not appear to have been occupied for either of their intended uses.

Detailed Proposals

In 2013, an application was approved to allow for the subdivision of the hotel at 12-13 Esplanade Road to form an eleven bedroom hotel (number 12) and seven holiday flats (number 13) under reference P/2013/1320. The current proposal is for the removal of condition 1 of planning application reference P/2013/1320 to allow for the unrestricted residential occupancy of the flats however the submitted planning statement also indicates that one of the flats would be occupied as an office for staff rather than as residential accommodation. The use of the building as seven unrestricted residential flats would be achieved via the removal of condition 1 however the use of one of these flats as an office would require submission of a separate application and could not be dealt with

simply by removing this condition.

The submitted planning statement describes the intended use of the site as the use of seven flats to provide supported living accommodation for people with learning disabilities. The LPA has the ability, when considering applications to develop land without compliance with conditions previously attached to impose different conditions. However, it is considered that the detrimental effect on the CTIA would be unacceptable in planning terms both if the flats were used for unrestricted residential purposes or for supported living flats.

Summary Of Consultation Responses

Drainage Engineer: Comments awaited.

Environment Agency: No objections to the proposal providing the development proceeds in accordance with the submitted Flood Risk Assessment. The vulnerability of future residents is noted and it is recommended that a robust flood evacuation plan is implemented. It is advised that the Emergency Planner may be able to assist with this element.

Highway Engineer: No objection to the previous application for holiday apartments (P/2013/1320). No details of parking have been provided on the current application, but P/2013/1320 indicated 12 spaces. Given the nature of the use, at least one of the spaces should be designed for people with disabilities, in accordance with note (e) of Appendix G Car Parking Requirements of the Local Plan.

Senior Strategy and Project Officer: The accompanying information clearly indicates that the proposal is for supported living accommodation for people with learning disabilities, mental health needs and brain injuries. It is advisable to obtain a legal view on whether the proposed use falls within Use Class C3 (which includes housing where an element of care is provided) or C2 residential institution. This may affect the relevant considerations.

The most relevant consideration is the effect on tourism, and compliance with Policies TO1 and TO2 of the Adopted Local Plan 2012-30. Policy TO1 seeks inter alia the retention of holiday accommodation in Core Tourism Investment Areas. Policy TO2 sets out criteria for considering change of use in CTIAs, including whether a premises lacks appropriate facilities or scope for improvement, and where there is no reasonable prospect of the site being used or redeveloped for tourism or related purposes. The planning statement indicates that there are other holiday uses on the market in the area, and that there is an oversupply of holiday accommodation. The new Local Plan has significantly reduced the number of holiday areas in comparison with the former Principal Holiday Accommodation Areas (as defined in the Torbay Local Plan 1995-2011), and most of these other hotels are outside of the CTIA and are more suited in principle for conversion to residential use. The planning statement does

not show that there is no reasonable prospect of the accommodation being used for holiday purposes. The Esplanade is a prime seafront location which would in principle be attractive to tourists, and is close to a range of tourism attractions. The apartments were recently approved as holiday apartments by separating 12 and 13 Esplanade Road, so the Council has sought to be flexible about the type of holiday accommodation on offer. Taking the above into account, it is considered that the application conflicts with Policies TO1 and TO2 of the Local Plan with regard to loss of tourist accommodation.

The application has two lower ground floor apartments, and is accompanied by a flood risk assessment which recommends flood resilience measures. It would be worth ascertaining whether these measures will be adequate if the accommodation is for vulnerable people. It is noted that the Environment Agency have made general comments, however the Council's Drainage Engineer will also provide a advice on flooding issues.

The application is for self contained units and the applicant's statement that Policy H6 "Accommodation for people in need of care" is more relevant than Policy H4 "HMOs" is agreed. The location is within easy reach of community facilities etc, although this does not override concerns on tourism grounds. It is noted that the applicant is a private operator, if the Council were minded to approve the application, then Policy H6 indicates that a S106 Obligation will be sought to meet the likely health and social services costs arising from the proposal. If clients are not from Torbay, then there is likely to be a health/social services impact that will need to be mitigated.

Legal: The application to remove condition 1 will not allow for six supported living flats and one office. If permission is granted, it will permit the seven holiday flats authorised by the existing permission to be used for general residential purposes, including people in need of support. As 'self contained' flats are each self-contained residential dwellings the only further consent that would be required for the applicant to achieve the use they want would be a change of use of one flat from C3 to A2. Class C3 (b) is defined as 'up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning difficulties or mental health problems. The fact that the individual dwellings (flats) are in one building with an office would not result in the building being in a Class C2 use.

Summary Of Representations

5 representations have been received. Issues raised:

- Impact on tourism and incompatibility of use with tourism uses in the area
- Impact on character of the area
- Impact on local amenity including noise, crime, nuisance and anti-social behaviour
- Impact on parking

- Contrary to policy

These representations have been sent electronically to Members for consideration.

Relevant Planning History

- P/2015/0029 Change of use from hotel to student residence/hostel REFUSED 24.04.2015
- P/2014/0241 Extension to Owners' Annexe at ground and first floor level and alteration to fenestration on rear elevation of main building to form 2No. door-height opening casements with 'Juliet' rail balustrade. APPROVED 30.04.2014
- P/2013/1115 Extension and alterations to existing detached owners' annexe to form 2 owner's annexes APPROVED 16.12.2013
- P/2013/1320 Alterations and separation of Nos. 12 & 13 (reinstatement of original separate properties) to form 11 bedroom hotel (No.12) and 7 holiday apartments (No.13). Single storey extension at rear to form utility room for No.12 APPROVED 07.02.2014
- P/1987/2027 Two storey extension to form additional owner's bedroom and store APPROVED 27.01.1988
- P/1986/1838 Extension to bar, diner and kitchen APPROVED 16.09.1986

Key Issues/Material Considerations

The main issues are the impact of the proposal on tourism, local amenity and flood risk and the need for accommodation for people in need of care.

Tourism

The application site is located within a Core Tourism Investment Area as noted in policies TO1 and TO2 of the Torbay Local Plan. Policy TO1 of the Torbay Local Plan confirms that the Council wishes to see the quality of tourist accommodation improved within Torbay with a wider range of new and refurbished facilities and services and that such aims should be achieved through (in part) the retention and improvement of high quality tourism and leisure accommodation in sustainable and accessible locations with particular focus on Core Tourism Investment Areas. This policy also states that the Council will resist the provision of small apartments in tourism areas and focus interdepartmental enforcement action on problem uses in tourism areas. The policy seeks to maintain and enhance the most important tourism areas, the Core Tourism Investment Areas. Such areas are intended to ensure the retention and improvement of sufficient high quality accommodation and attractions in order to

provide a critical mass needed by a premier resort. Policy TO2 states that there will be a presumption that the tourism role of premises should be retained and enhanced commensurate with their contribution to the area's tourism offer. The change of use of accommodation or facilities to non-holiday uses will only be permitted where, such accommodation lacks an appropriate range of facilities and scope for improvement and where it can be demonstrated that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes. The sub text to this policy states that policy TO2 aims to protect and enhance the most important and high quality accommodation and facilities.

The 'Turning the Tide' Tourism Strategy 2010-2015 identifies Paignton as a family resort with the Victorian Pier and beach being key features. The same strategy notes Paignton Seafront as a concentrated area of holiday accommodation located closest to the tourist facilities. The application site is located in a sea front location, in a terrace of properties largely in use as holiday accommodation. The site is in close proximity to the town centre and tourism facilities such as the beach, pier and green and is easily accessible by road and rail.

The removal of condition 1 would result in 7 small unrestricted residential units within the Core Tourism Investment Area which would be contrary to policies TO1 and TO2 of the Torbay Local Plan. Policy TO2 explains that the conversion of holiday accommodation to non-holiday uses will only be permitted where it lacks the appropriate range of facilities and where it can be demonstrated that there is no reasonable prospect of the site being used or redeveloped for tourism or tourism related purposes.

The building was formerly known as 12-13 Esplanade Road was previously in use as a hotel. In 2013 planning permission was granted to allow the building to be sub-divided to form a hotel (number 12) and a block of holiday flats (number 13). The holiday flats are each self-contained, self-catering flats and supported by owners accommodation to the rear of the site. They are located in a prime tourism area that would in principle be attractive to tourists being accessible and close to tourist facilities. They cannot be described as lacking a range of facilities either within the building or in terms of their proximity to community or tourism facilities and therefore would fail criteria 1 of Policy TO2.

The planning statement submitted with the application indicates that there are other holiday uses on the market in the area, and that there is an oversupply of holiday accommodation. With the replacement of designated Principal Holiday Accommodation Areas (Torbay Local Plan 1995-2011) with Core Tourism Investment Areas (Torbay Local Plan 2012-2030), the new Torbay Local Plan has significantly reduced the number of protected holiday areas. The hotels referred to within the submitted planning statement are largely located outside of the Core Tourism Investment Area and it is hotels outside of these areas that are

recognised as being more suitable in principle for conversion to non-holiday uses. The application submission does not demonstrate that there is no reasonable prospect of the site being used for holiday accommodation and therefore fails criteria 2 of Policy TO2. In line with the above, it is considered that the application conflicts with Policies TO1 and TO2 of the Local Plan with regard to loss of tourist accommodation

Housing for People in Need of Care

The application is for the removal of condition 1 to allow the provision of unrestricted residential permanent accommodation. The intended use class would be C3 (b) with each of the flats being capable of accommodating a single household of not more than six people and receiving care although they could also be used as C3 (a) a single person or people forming a single household or C3 (c) a single household of not more than six people where no care is provided. Whilst the intention of the applicant is to provide six flats for this purpose with one flat being used as an office for staff this would not be facilitated by the removal of condition 1 and a further application would be required in the event that this application was successful. The removal of condition 1 would facilitate any of the uses noted within use class C3 however as the planning statement clearly states the intention is to provide use class C3 (b) flats, policy H6 is considered relevant. Policy H6 states that the Council will support measures to help people live independently in their own homes and to live active lives within the community subject to other policies in the Torbay Local Plan. This policy includes several criteria for consideration, criteria 2 notes that new sheltered housing will be supported where it is within easy reach of community facilities, shops and public transport. The location is within easy reach of community facilities and therefore would fulfil this criteria, however this would not override the concerns raised on tourism grounds. Whilst it is noted that the proposal would meet the criteria of H6 and provide social and economic benefits in terms of job creation (18 full time non-seasonal jobs) and accommodation for people in need of care, such a use could be provided elsewhere whilst achieving these same benefits and meeting the aims of policy H6. There is no requirement for sheltered or supported living accommodation to be provided in seaside locations however quality tourism accommodation is largely dependent on its location close to tourism facilities and a range of transport options, the area has been designated for its tourism character and as such the retention of such facilities in Core Tourism Investment Areas is paramount. On balance it is considered that the harm identified as a result of the loss of the holiday accommodation is not outweighed by the social and economic benefits of providing this type of accommodation which could be provided in accessible locations elsewhere within the Bay.

In the event that the application were to be considered acceptable, policy H6 indicates that a S106 obligation may be sought to meet the likely health and social services costs arising from the proposal however in this instance refusal is recommended and therefore a financial contribution has not be pursued.

Flood Risk

The building sits within Flood Zone 2 and 3 and is at risk from both fluvial and tidal flooding. In flood zone 3 only water-compatible and less vulnerable uses of land are appropriate. As there is no sleeping accommodation at lower ground floor level as a result of the removal of condition 1 in relation to holiday occupancy, the flood risk vulnerability is unchanged at 'more vulnerable'. The Environment Agency has stated that they have no objections subject to the works continuing to proceed in accordance with the flood risk assessment submitted as part of reference P/2013/1320. If approved, the Environment Agency have recommended that a flood evacuation plan is submitted however for the reasons set out above the proposal remains contrary to policy and therefore this has not been requested. Comments from the Drainage Engineer are awaited and will be reported verbally to the Development Management Committee.

Residential and Local Amenity

The impact of a change in occupancy to unrestricted residential use will be limited in the absence of any significant extension and/or intensification of the building itself. 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 not considered to result in any serious detriment to neighbouring amenity. The intention to use the site for supported living is noted however simply removing condition 1 would allow the units to be used by any potential occupier for permanent residential use. Were the application considered acceptable in terms of the loss of holiday accommodation and the provision of permanent residential accommodation, the end occupier would not represent a reason to refuse the application in this instance and therefore has not been considered further.

It is noted that the site is located within a Community Investment Area, such areas are designated due to the level of deprivation and related social issues that are experienced in these areas. Policy SS11 of the Torbay Local Plan states that development will be assessed against its contribution to improving the sustainability of existing and new communities within the Bay and that they will be assessed against specific criteria. Developments will be required to provide a good standard of accommodation especially in Community Investment Areas by seeking to retain small to medium sized homes (2-4 bedrooms) and resisting change of use of these homes to HMOs and small self-contained flats with the aim to achieve balanced communities. The sub-text to this policy indicates that the Plan will support investment in Community Investment Areas such as the provision of new homes or mixed use schemes where they help to achieve more balanced communities by delivering a mix of employment, family housing, healthcare, childcare, education and local centre facilities. The proposal would not provide family homes, but small flats which are likely to be of single occupancy due to their small scale. The use of these flats for unrestricted permanent residential use, due to their scale would not fulfil the criteria set out in policy SS11 and may perpetuate the level of deprivation within this Community

Investment Area which would be at odds with the aims of policies SS11, TO1 and TO2 of the Torbay Local Plan as noted above.

In addition to the above policy DE3 of the New Local Plan and the DCLG's space standards suggest that a single bed space single storey dwelling should have a minimum internal floor space of 37sqm with an additional 1sqm of built in storage to ensure a good standard of accommodation. In this case some of the flats have a floor area of 26sqm which would fall below these standards and therefore be likely to result in a poor standard of living for future occupants.

S106/CIL -

In line with the Council' Planning Contributions and Affordable Housing: Priorities and Delivery Adopted Supplementary Planning Document, policy SS7 and H6 of the Torbay Local Plan, a financial contribution is likely to be required to mitigate the impact of the development on surrounding infrastructure. However in this instance the proposal is recommended for refusal and therefore a financial contribution has not been sought however may be included as a reason for refusal for matters of protocol.

Conclusions

In conclusion, the proposal to remove condition 1 of application reference P/2013/1320 is considered contrary to policies TO1 and TO2 of the Torbay Local Plan 2012-2030 as it would result in the loss of holiday accommodation within a Core Tourism Investment Area, the proposal would not maintain or enhance the an area designated for its tourism importance and would introduce a permanent residential use which would not be in keeping with the holiday character of the area. Whilst the social benefits in terms of the type of accommodation being provided and the economic benefits in terms of job creation are noted, such benefits would not be outweighed by the harm that would be caused to the tourism industry.

In addition the proposal would result in seven small residential flats within a Community Investment Area, an area that has been designated due to the level of deprivation experienced in these areas. The provision of these flats would not support a balanced community and would be likely to perpetuate the level of deprivation within this area through the provision of small flats which would be unlikely to provide a good standard of living for future occupants contrary to policy SS11 and DE3 of the Torbay Local Plan 2012-2030 and would not support the aims of policy TO1 and TO2 which aim to maintain and enhance Torbay's tourism offer.

Condition(s)/Reason(s)

01. The proposal would result in seven small residential flats within a Community Investment Area, an area that has been designated due to the level of deprivation evident in these areas. The provision of these flats would not support a balanced community and would be likely to perpetuate the level of

deprivation within this area through the provision of small flats which, due to their scale, would be unlikely to provide a good standard of living for future occupants contrary to policy SS11 and DE3 of the Torbay Local Plan 2012-2030.

02. The proposal would result in the loss of holiday accommodation within the Core Tourism Investment Area, the proposal would not maintain or enhance the area designated for its tourism importance and would introduce a permanent residential use which would not be in keeping with the holiday character of the area contrary to policy TO1 and TO2 of the Torbay Local Plan 2012-2030.

Relevant Policies

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Agenda Item 9

Application Number

P/2016/0133

Site Address

Land At
Paignton Green
Parks Path
Paignton

Case Officer

Gary Crawford

Ward

Roundham With Hyde

Description

Erection of coffee kiosk (Resubmission of P/2015/1123)

Executive Summary/Key Outcomes

This application is for the erection of a coffee kiosk on an area of decking on Paignton Green, situated in between Eastern Esplanade and the Geoplay Park.

The proposal is considered to be acceptable in this location and without any overriding detriment to the character or appearance of the locality. Consequently, the proposal meets Local Plan policy requirements.

Recommendation

Subject to no new issues being raised that have not already been considered by the DM committee during the consultation period that expires on 21st March 2016, approval subject to conditions regarding the submission of drainage details and controlling the hours of use of the kiosk from 08:00 to 20:00 Mondays to Sundays.

Statutory Determination Period

The application should be determined within 8 weeks expiring on 8th April 2016.

Site Details

The application relates to a rectangular area of land on Paignton Green, situated in between Eastern Esplanade and the Geoplay Park, and to the north of an existing shelter.

Detailed Proposals

The application is for the erection of a coffee kiosk on an area of area of decking. The kiosk would be 4.8m in width, 3.6m in depth and 3.6m in height with a pitched roof to match the neighbouring shelter. The proposed materials are cream painted timber boarding with grey plywood removable panels, black metal guttering and a slate roof. The kiosk would be situated on an area of decking which would be 14m in width and 6m in depth.

Summary Of Consultation Responses

Community Protection: No comments received.

Drainage Engineer: No objections subject to a condition regarding the submission and approval of the detailed design for the sustainable drainage system before work commences on site.

Summary Of Representations

One letter of objection has been received which raised concerns about the proposed kiosk being out of keeping with the area and drainage issues.

Officer comment - The neighbour consultation period for this application is due to expire after the date of the March Development Management Committee meeting. Therefore, no decision shall be issued until after the neighbour consultation period has finished.

This representation has been sent electronically for Members consideration.

Relevant Planning History

P/2015/1123: Erection of coffee kiosk. Withdrawn 06/01/2016.

Key Issues/Material Considerations

The key issues to consider in relation to this application are the impact the proposal would have on the character and appearance of Paignton Green, and flood risk.

The proposed kiosk and associated decking area would be located on Paignton Green North, which is designated as an Urban Landscape Protection Area in Policy C5 (Urban Landscape Protection Areas) of the Torbay Local Plan 2012-2030. Policy C5 specifies that development within Urban Landscape Protection Areas (ULPAs) will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

Whilst Paignton Green is mostly characterised as an open green space, there are some existing structures located on Paignton Green, in addition to the Geoplay Park. The proposed coffee kiosk has a traditional Victorian seaside design to match the existing shelters and other structures situated along the perimeter of Paignton Green. The proposed roof pitch and materials would match the neighbouring shelters, although the proposed kiosk would be painted cream and grey to distinguish it from the existing shelters. As such, it is considered that the proposed kiosk is in keeping with the existing structures on Paignton Green

in terms of its size and design, and it would preserve the traditional seaside architecture of Paignton seafront. It is therefore deemed that, given the existing buildings on Paignton Green and, the size and design of the proposed kiosk, the proposal would not undermine the value of the ULPA and, it would make a positive contribution to the urban environment and enhances the landscape character of the ULPA. Whilst the proposed decking area may take up additional green space, the decking area is deemed necessary as it provides a more practical surface for the kiosk's customer seating area rather than directly on the grass.

Policy TO1 (Tourism, events and culture) of the Torbay Local Plan supports in principle the improvement of existing and provision of new tourist accommodation and attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. The application site is also located within Core Tourism Investment Area (CTIA) as designated in Policy TO1. As such, given the site's location within a CTIA and as the proposed kiosk provides an additional area for parents to sit and supervise their children who are using the Geoplay Park, the proposal would comply with Policy TO1. The provision of the kiosk is linked to the Geoplay Park and it is intended that the rental income from the kiosk will be used to fund its running cost. The Geoplay Park provides a popular area for play. Furthermore, the proposed kiosk would also provide an additional refreshment outlet for the users of Paignton seafront.

The application site is located within Flood Zone 3 and the applicant has indicated that surface water from the development would be drained to a soakaway. As such, the proposal is deemed acceptable in terms of flooding, subject to a condition regarding the submission and approval of the detailed design for the sustainable drainage system before work commences on site.

S106/CIL

N/A

Conclusions

In conclusion, it is considered that the proposed development would not harm the appearance and character of Paignton Green or result in an adverse impact in terms of flooding. Therefore, it is deemed that the proposed development would be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

Relevant Policies

C5 - Urban landscape protection areas

TO1 - Tourism, events and culture

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

Application Number

P/2015/0939

Site Address

Wheatridge Lodge
Wheatridge Lane
Torquay
Devon
TQ2 6RA

Case Officer

Mr Scott Jones

Ward

Cockington With Chelston

Description

Detached double garage with workshop and storage above to rear of property (as revised by plans received 16.12.2015).

Executive Summary / Key Outcomes

The application was deferred at the meeting on 9th February. Members requested further information in respect of drainage and trees.

In response the applicant has submitted a revised plan that has altered the driveway and surrounding footpaths to a permeable material finish. This reduces the level of impermeable surface and removes the drainage channel previously detailed at the edge of the plot and the uncertainty over where resultant run-off would be discharged.

Detail on the attenuated discharge of rainwater run-off from the building has not been submitted. It remains Officers opinion that this detail can be controlled by a planning condition due to the scale of development.

The access point has been tapered in order to provide a splay to the west and improve visibility towards the public right of way when exiting the site. Highways comments are pending and will be confirmed at the meeting. But the previous view of Highways was that the scheme is acceptable for approval subject to improved visibility to the west.

Further comment from the Council's Arboricultural Officer is awaited, and will be confirmed at the meeting. Previous advice was that existing trees on the site are not protected, and are not of sufficient quality for a Tree Preservation Order to be served. In regard to related matters the tapered entrance appears to present less pressure upon the adjacent border tree, in comparison with the original submitted plan. Additional planting is proposed to replace trees where they are lost.

In line with previous advice the proposal is considered a suitably scaled and designed building in the context of the plot and wider area, with limited visual

harm.

The impact upon neighbour amenity from the provision of an ancillary domestic outbuilding to the rear of the plot is considered limited and the retained trees will limit loss of privacy and overlooking from the roof void windows and any occasional use of this area.

The access and highway matters are considered acceptable subject to comments from the highway department and detail on the gated entrance.

Impact upon surface water, trees and ecology are considered acceptable subject to conditions to secure appropriate development.

Recommendation

Subject to the receipt of satisfactory further information in respect of highways and impact on trees Conditional Approval.

Determination period

Extension previously agreed until 12.02.16. A further extension has been sought and response is pending.

Site Details

The site holds a large two-storey detached dwelling set off the east side of Wheatridge Lane, Torquay, where the building is currently accessed via a short level drive and steps down to the main entrance.

The dwelling is contained within the front half of the plot and to the rear there is generous private garden space that are largely laid to lawn interspersed with a handful of mature trees. Borders are defined by a mixture of fencing and hedging. There is a gentle slope in the garden level away from the property from west to east.

The rear border of the plot abuts a public right of way that links Wheatridge Lane with Woodleys Meadow. This links further east to Torbay Road where it emerges between South Sands and Corbyn Lodge.

There are no built or landscape designations over the land or land immediately adjacent.

Detailed Proposals

Detached double garage with workshop/storage space set to the rear of the dwelling with a proposed new access on to Woodleys Meadow.

Following revised plans received 16.12.2015 the proposal is for a simple gabled building with rendered walls under a red concrete tiled roof inset with roof lights. The principal outward elevation will hold two garage doors with a side window

and there are further window or door openings within both the side elevations and the rear elevation.

The building is 8.5m wide by 7.2m deep with a height of 2.3m to the eaves and 6.3m to the top of the central ridge. The roof is pitched at 45 degrees.

There will be a degree of excavation to provide a level finish which will require a retaining wall circa 1m high to the rear of the building to contain the garden. A mature fir tree will be removed as it sits within the footprint of the proposed building.

The connecting drive and entrance reduced from the previous width of 5m to provide a splay and improve visibility.

The proposal is a simplified design to that originally submitted and the application has been re-advertised to permit public comment on the revised drawings.

Summary Of Consultation Responses

Highways Department Previously recommend that the applicant make allowance for a 2m visibility splay exiting the new access, on the south-west side, for the safety of pedestrian movement. Update comments pending.

Drainage The submitted Flood Risk Assessment outlines that soakaways have been discounted due to site constraints. The alternative surface water management proposal incorrectly states that the Critical Drainage Area designation relates only to watercourses and incorrectly assumes a discharge rate of 5 l/s. Controlled discharge is acceptable however the stated discharge rate is unacceptable. The applicant should demonstrate that the surface water drainage system should not result in any increased risk of flooding for the 1 in 100 year storm event plus a 30% allowance for climate change.

Arboricultural Officer Previously determined that the vegetation on site is not protected by a Tree Preservation Order or Conservation Area designation. Mature and visually prominent the trees on the site do not qualify for protection, which informs that the trees are not a constraint to the development. Update comments pending.

Infrastructure Officer Removal of vegetation suitable for bird nesting should be undertaken outside of the bird breeding season or immediately following due assessment by a suitably qualified ecologist. Enhancements for ecology should be achieved through bird and bat boxes, details of which could be achieved by condition.

Summary Of Representations

A number of representations received following both periods of public consultation. The key issues raised include:

- Impact of additional highway movement through Woodleys Meadow
- Impact/conflict with pedestrians using the footpath
- Overdevelopment
- Visual impact
- Impact of additional parking in Woodleys Meadow
- Noise impact from the workshop
- Appears a building designed for residential use
- Impact of vehicles across the land adjacent
- Impact from business use of the building
- Loss of privacy from inter-looking

These representations have been sent electronically for Members consideration.

Relevant Planning History

None.

Key Issues/Material Considerations

With consideration of the proposal and the context the key issues and material considerations are;

1. Use of the outbuilding and principle
2. Visual impact
3. Impact upon adjacent occupiers / amenity
4. Highway / movement impact
5. Drainage / flood risk
6. Trees
7. Biodiversity and protected species

1. Use of the outbuilding and principle

The proposal is for a double garage with workshop and storage space in the curtilage of a dwelling.

A number of public representations raise concern in regard to potential business use of the workshop or potential use of the building as habitable space and the impact of these uses. The proposal is however one for garage parking with workshop / storage space above, which are considered incidental to the dwelling house and should be considered as such.

The provision of domestic garaging and ancillary workshop and storage space, for the purposes that are incidental to the occupation of the dwelling house, is considered to be appropriate form of development in the residential context. Incidental uses are those considered of minor, casual or subordinate nature to the occupation of the main dwelling house and hence by their very nature are likely to sit comfortably in the residential context with little impact.

In order to provide clarity on the use and ensure an appropriate form of development it is recommended that a condition of use be attached to a grant of permission to ensure the building is used for the purposes that are incidental to the occupation of the main dwelling house and is at no time used for business or independent habitable purposes.

In-line with the points above the principle of the proposed building and its use is considered to comply with relevant criteria of Policy DE1 and DE3 of the Torbay Local Plan 2012-2030.

2. Visual impact

The proposal is considered acceptable in regard to the likely visual impact.

In terms of scale, the building will clearly sit as a subordinate garage outbuilding set in the relatively spacious grounds of a large dwelling. The building will not cramp or overdevelop the plot as substantial garden space will be retained and the overriding open and spacious character protected.

In terms of the design, the simple gabled form reflects the local character, as well as the palette of materials which is a simple mix of render under concrete tiles. There are a number of detached double garages within the Woodleys Meadow development and a number of these are gabled detached buildings. The predominant scale of the garages within Woodleys Meadow is slightly smaller than the scale of the proposal, as they are generally around 6m by 6m, however the plots in which they sit are themselves smaller. The larger scale of the proposed garage to those found within Woodleys Meadow is considered appropriate considering the scale of the plot in which it will sit and also its slight detachment from the modern development due to its location. The steep 45 degree pitch is similar to the garage structures that are present in and around the approach through Woodleys Meadow.

The alteration to the boundary to permit access to the garage is unlikely to alter the character or appearance of the area. It is noted that there appears a vehicular access already established to the south of the head of the public right of way off the rear of the plot of St Regulus which also fronts Wheatridge Lane.

It is recommended that the detail of the boundary access is achieved by condition to ensure an appropriate form of development that protects visual amenity.

Having considered matters of scale, design and setting the proposal is appropriate within the context and retains the domestic open character and appearance of the area. The proposal is considered to comply with the aims and objectives of Policy DE1 of the Torbay Local Plan 2012-2030.

3. Amenity impact

The proposal is considered acceptable on amenity grounds.

The provision of domestic garaging with secondary workshop/storage space above, which is incidental to the occupation of the associated dwelling, is unlikely to demonstrably affect neighbour amenity in terms of noise and general activity. By their very nature the uses proposed are in character with a residential context.

The scale and height of building would not result in an overbearing structure that would result in undue loss of outlook or light.

In terms of overlooking and loss of privacy the upper floor void space is to be served by four roof lights and with windows within each side gable. The impact of these will be discussed in turn below, within the context that occasional incidental use of the roof space is likely to limit the degree of potential impact.

The north-east gable window is in close proximity to the boundary and should be obscured to protect amenity. The south-west gable window is not considered to introduce undue harm on amenity due to the distance to other plots and buildings. The south-east roof lights that face towards Woodleys Meadow are considered to retain suitable levels of privacy subject to the retention of tree screening. The north-west elevation is slightly orientated towards the boundary with an adjacent property however again there is retained screening that will limit over-looking.

Subject to a condition on obscure glazing within the north-east gable, and the retention of the trees indicted or the provision of obscure glazing within the relative roof lights, the building and its use would not result in undue harm on neighbour amenity.

The development is considered to retain suitable levels of amenity subject to condition and complies with Policy DE3 of the Torbay Local Plan 2012-2030.

4. Highway and movement impact

The proposal is considered acceptable on highway and movement grounds.

The proposal provides ancillary parking to the dwelling and a new access across a public right of way on to the highway network within Woodleys Meadow.

The proposed garage parking accords with policy guidance in terms of the minimum depth and width of the enclosed spaces provided. In combination it will provide parking on site above the standard expected requirement for dwellings (2 spaces), however the dwelling and plot is relatively large and the resultant provision is not considered uncharacteristic for a large dwelling.

The proposal will result in a vehicular access across a public right of way and a

revised plan that seeks to improve visibility has been submitted. Consideration is subject to comments from the Highway department on the revised access solution that concludes that it is unlikely to increase the danger to pedestrians and other highway users.

Comments from the Highway Authority are pending.

It is noted that there is a rear vehicular access off a nearby property on the other side of the head of the pedestrian route.

The level of parking and the proposed access is considered acceptable (subject to highway comment) and the proposal is considered compliant with Policies TA2 and TA3 Torbay Local Plan 2012-2030.

5. Drainage

The proposal is considered acceptable on drainage grounds subject to a condition.

The proposal suggests surface water connection to the public sewer. This is considered acceptable where soakaways are shown to be unachievable, and then it should be at a controlled rate of discharge in-line with appropriate Greenfield run-off rates.

The response of the Authority's Drainage Department supports the conclusion above and greater detail is required on the attenuated and controlled discharge of surface waters.

Due to the limited scale of development it remains the view of officers that it is acceptable to seek this detail by planning condition.

The surrounding drive and paths have been altered to permeable treatment which reduces the level of impermeable surfacing and removes the requirement of a gully drain at the edge of the plot.

Subject to condition aligned with the above the proposal is considered consistent with the aims and objectives of Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

6. Trees

The proposal is considered acceptable on arboricultural merit.

There are no protected trees within the site and the site does not lie within a conservation area.

The removal of the fir tree has been considered by the Council's arboricultural officer and although visually prominent it is not considered worthy of protection

and is hence is not a constraint to development. The arboricultural officer has been asked to provide further justification for this assessment following members previous resolution and comments will be outlined to members at their meeting.

There are retained trees in close proximity to the proposed building and hence it is considered appropriate to seek further detail on proposed protection measures during the construction period. This should be achieved through condition, certainly as they afford amenity screening.

Replanting is proposed which can be conditioned.

With a condition relating to the above the proposal is considered acceptable in accordance with Policy C4 of the Torbay Local Plan 2012-2030.

7. Biodiversity and protected species

The proposal is considered acceptable in terms of biodiversity and protected species.

The removal of the fir tree or scrub that may hold nesting value should be undertaken outside of the bird nesting season (March -September inclusive), unless previously inspected and found absent of nests by a suitably qualified ecologist. This should be a condition of a grant of consent.

Mitigation in terms of bird and bat boxes should be provided to counter the loss of the large tree as a potential nest or roost location. Details of mitigation should be considered by a condition to the grant of consent.

With the matters above addressed the proposal is considered comfortably aligned with the aims and objectives of Policy NC1 of the Torbay Local Plan 2012-2030.

S106/CIL

N/A.

Conclusions

Having considered the aims and objectives of relevant planning policy guidance and other material considerations the proposal is considered acceptable on planning merit.

The application is recommended for approval subject to conditions on use, management of surface water drainage, tree protection measures and nesting/roosting mitigation, obscure glazing and retained natural screening, boundary treatment, and landscape planting.

Condition(s)/Reason(s)

01. The ground floor of the building hereby approved shall be used solely for the purposes of the parking of vehicles incidental to the occupation of the main

dwelling house, and the upper void space shall only be used for uses incidental to the occupation of the dwelling house. At no time shall the building be used for business or habitable purposes.

02. Prior to the commencement of development details of a proposed surface water management system for attenuation and controlled discharge in to the Public Sewer shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

03. Details of the proposed boundary and entrance detail, which shall include a visibility splay detail to improve sightlines to the west when exiting the site, shall be submitted and approved in writing. The development shall be carried out in accordance with the approved details.

04. The removal of scrub or trees, which have a potential as habitat for nesting birds, shall be undertaken outside of the bird nesting season (March-September inclusive). The removal of such habitat within the bird nesting season shall only be considered immediately following a survey by a suitably qualified ecologist that confirms the absence of nesting birds. Prior to the first use of the building details of proposed bird and bat boxes, to include their location, shall be submitted and approved in writing in order to ensure suitable ecological mitigation / enhancement.

05. The external material finish shall match, in form and colour, those of similar elements found within the main dwelling house.

06. The gable window within the north-east elevation shall be obscure glazed. Should the screening trees north or east of the building be removed, die, or be managed in a way that alters there character and value as a screen that limits inter-visibility, obscure glazing shall be provided within the roof-lights within the corresponding roof slope.

07. Details of replacement planting including pit details and maintenance shall be submitted and approved.

Informative(s)

01. Prior to the commencement of development the applicant is advised to consider the right of vehicular access over the land that lies immediately adjacent to the plot and the public highway to the east.

Relevant Policies -

Agenda Item 11

Application Number

P/2015/1184

Site Address

Land Adj. Beggars Roost
Beach Road
Babbacombe
Torquay
TQ1 3LX

Case Officer

Mr Scott Jones

Ward

St Marychurch

Description

Change of use to provide car parking (19 spaces), associated landscaping and associated works

Executive Summary

The proposal is for the change of use of and physical works to a historic walled garden located at the end of the spur road that runs east off Beach Road, Torquay.

The proposed use is for a private car park for 19 vehicles to serve the Cary Arms Hotel, which is presently being expanded to provide habitable beach huts and additional holiday cottages. The proposal is necessary to meet the parking demands resulting from the expansion of the business and will directly support a tourism facility and the economy.

The site sits in the Babbacombe Conservation Area and is adjacent to the designated border of the Hope's Nose to Walls Hill SSSI. There are a number of Listed Buildings in the locality and their settings are a material consideration.

The detailed proposals are to use the existing vehicular entrance to the site and remodel the land to reduce the slope over the usable area, with the spaces and manoeuvring area finished in gravel. Additional physical works include replacing a low block boundary wall with a reclaimed stone wall, along with providing steps and timber railings to a pedestrian exit.

The visual impact of the proposals and impact upon heritage assets are, on balance, considered to be acceptable. The site will be well screened from short and long distance views and any impact upon the Conservation Area would be mitigated by the improvements to the character immediately around the site where an incongruous low block boundary wall will be replaced with a stone wall, which will enhance an area of the public footpath. The development will not affect the setting of the various listed buildings that sit off the spur road but here is less than substantial harm to the setting of the Babbacombe Cliff Listed Building that sits 230m metres to the west of the site due to a direct vista from

this site. The harm is considered limited and there are wider economic and public benefits that are considered to provide a context where the level of harm is acceptable for these reasons.

The impact upon the highway network and pedestrian safety is on balance considered acceptable subject to greater understanding on the structural integrity of the spur road, the provision of two passing places and appropriate management techniques, which will limit the impact of vehicle movement. The structural integrity should be established prior to the grant of planning permission.

The proposal is acceptable on ecological grounds subject to conditions to ensure that the development is constructed in a manner considerate to the context and in order that, post development, enhancements are achieved.

The proposal presently fails to provide satisfactory understanding of the detailed design of surface water treatment and greater detail is necessary in order to prove that flood risk would not be increased. This information is required prior to the grant of planning permission .

Recommendation

Deferred Approval: Subject to:

1. the receipt of surface water drainage details to the satisfaction of the LPA within 2 months of the date of the committee, and;
2. the receipt of an assessment of the spur road that confirms the structural integrity of the road to the satisfaction of the LPA within 2 months of the date of the committee.

Officer recommendation is one of deferred approval with resolution of the above matters being delegated to the satisfaction of the Director of Operations and Finance within the stated time period.

Should the above matters be resolved the recommendation is approval subject to necessary conditions, to include those laid out in this report, delegated to the Director of Operations and Finance.

It is recommended that failure to satisfy either of the outstanding matters (points 1 or 2 above) then the application shall be reconsidered by the Development Management Committee.

Site Details

The site is a parcel of land that sits at the end of a spur road off Beach Road, Babbacombe, Torquay, close to and within ownership of the Cary Arms Hotel.

The land is walled garden with no determinable use at present. It is accessed off the spur road through an existing vehicular entrance at its western point. The land slopes gently from south to north towards the coast and is covered with unmanaged grass and low scrub.

The existing walls to the north and south define the plot and run alongside public footpaths. Adjacent to the plot there are steps down and a public footpath route to the Cary Arms and the coastline to the north. To the south across the walled border and public footpath sits The Grove, a grade 2 listed building. To the east is woodland and the western extent of the Walls Hill SSSI. There are 3 further listed buildings accessed off the spur road in relatively close proximity of the site.

The site is located within Babbacombe Downs Conservation Area and within the undeveloped coastline designation within the Local Plan.

Detailed Proposals

The proposal is for the change of use of the land to a car park to provide 19 car parking spaces with various physical works, which include;

- Re-grading of the land to reduce the slope from south-to-north
- Provision of gravel-filled gridwork as a material surface treatment
- Replace low blockwork northern boundary wall with a higher wall finished in reclaimed natural stone
- Provide steps and timber handrails down to the north pedestrian access on to the public footpath
- Provide screen planting and landscaping

Summary Of Consultation Responses

Natural England The proposal, if carried out in accordance with the submitted detail, would not damage or destroy the interest features for which the Hopes Nose to Walls Hill SSSI has been notified.

Arboricultural Officer: The general detail of the proposed landscaping and positioning of species is supported however the choice of species should be revisited and submitted for approval, with detail provided on planting pits, staking methods and maintenance. This detail should be achieved by condition if the proposal is considered suitable for approval.

Green Infrastructure Officer: The proposal is supported by ecological survey work that recommends mitigation and enhancement during construction and post construction. In light of the context it is recommended that a grant of approval is subject to a pre-commencement CEMP (Construction and Ecological

Management Plan) condition and a post construction LEMP (Landscape and Ecological Management Plan)

Drainage Department: The proposal has explored soakaways, discounted them as a viable option, and provided details of an attenuated solution to discharge to a private surface water drainage system at a controlled rate. The FRA correctly outlines the expected controlled discharge rate however accompanying detail does not appear to accord with the expectations of the Critical Drainage Area advice that informs the LPAs expectations. Before planning permission is granted the applicant should supply detailed design of the hydraulic modelling to show that the drainage solution would not result in an increase to the risk of flooding elsewhere.

Conservation and Design Team:

Conservation and listed buildings:

The grade 2 listed "The Grove" sits immediately to the south of the site across a public footpath defined by relatively high stone walls, which act as a visual barrier between the plots due to the wall heights and land levels. The setting is unlikely to be affected.

There are three further listed buildings along the spur road. No concerns have been raised in regard to any likely impact upon setting.

Further to the west higher up Beach Road the site is visible from the grounds of the listed Babbacombe Cliff, with vistas down and across eastwards towards the site. There is a matter of setting to be considered notwithstanding the distance, which is circa 230m. The proposal is considered to result in less than substantial harm to the setting of this listed building.

Impact upon the Conservation Area is considered neutral as improvements to the borders of the site enhance the immediate area and will mitigate any impact on the few middle-distance views towards the site.

Landscape and visual impact:

The landscape and visual impact appraisal concludes that there are limited middle and long views to the site and impact would be minimal due to topography and existing and proposed screening. The evidence appears sound in this regard. Short views have not been assessed however they are also likely to be limited due to the border screening of the site and ground levels in the immediate area.

Strategic Transport and Highways Prior to any grant of permission a structural assessment to address concerns raised by neighbours about the structural integrity of the spur road and cliff face should be achieved.

In regard to broader merit the applicants are proposing additional measures to

avoid conflict with vehicles passing on the spur road, including a valet only access to the car park and one way traffic light giving priority to vehicles entering into the spur road, combined with the creation of passing spaces. These will alleviate the vast majority of conflicts between road users.

On the basis above the proposed use of the Beach Road spur to facilitate a car park is acceptable subject to the following:

- The structural survey details should be satisfactory and any works identified as needed should be carried out before commencement of the car park's use.
- The passing places should be provided prior to use of the car park
- An exit traffic light system shall be put in place before the occupation of the car park. This should be broadly in line with that suggested in Parker Associate's letter of 22nd February, but full details should be approved by the Council prior to the occupation of the car park. This should be maintained thereafter.
- The use of the car park should be limited to hotel guests via a valet controlled scheme, the details of which should be approved by the Council prior to the car park's occupation.
- Details of lighting of the footpath should be submitted before occupation of the car park.

Given the narrowness of the spur road, it would also be appropriate to require a construction statement from the applicant detailing how amenity impacts can be minimised during the car park's construction.

Summary Of Representations

A number of representations have been received both objecting to and supporting the proposal.

The following concerns are raised:

- visual impact, including the impact upon the landscape, conservation area and listed buildings
- highway safety concerns, including pedestrians in the area
- impact upon ecology
- structural integrity of the spur road and impact upon buildings
- there are better places for parking
- impact of construction traffic
- lighting impact
- inadequate passing places for vehicles

The following supporting comments were made:

- tourism benefits
- economic benefits
- supports business
- will ease pressure on the lower car park and free up space

These representations have been sent electronically for Members consideration.

Relevant Planning History

P/2013/1306: Erection of spa building to provide facilities ancillary to existing hotel (Use Class C1), together with waterside building and 6 no. beach huts to provide additional hotel accommodation (9 bedrooms), with associated decking and landscaping - Approved with parking provision condition for provision to be made prior to the occupation.

P/2012/0601/VC: Variation of condition 1 to application P/2007/1030 To comply with the wording of the Planning Obligation by Agreement made under Section 106 of the Town and Country Planning Act 1990 Para 5.1.15 - Wording to be amended to link the additional parking to occupation instead of commencement of the development as set out in the S106 Agreement.

Condition to be amended to read "The new hotel rooms are not to be occupied until the applicant has secured and provided additional parking for at least 23 vehicles in accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority.: Approved 09.08.2012

P/2007/1030/MPA: Alterations, Extensions And Pool At Cary Arms Hotel; Demolition Of The Glen Hotel And Construction Of 7 Dwellings. Demolition Of Cafe & Public Toilets And Construction Of New Cafe, Toilets and Dive Facility With 4 Holiday Apartments Over; Alterations And Improvements To Car Park: Approved 30.07.2009

Key Issues/Material Considerations

The key issues are:

1. Design
2. Visual / landscape impact
3. Impact on the conservation area and listed buildings
4. Impact on local highways and parking
5. Ecology
6. Impact upon local amenity

7. Flood risk

1. Design

The design of the development is considered acceptable, being sensitive of the context and responding to the character of the area and coastal hillside setting.

The ground coverage of the car park area is an informal one with gravel held in a grid network, which is considered to be an appropriate detail in the context of the coastal slopes and loose grouping of buildings and development.

The proposed vehicular and pedestrian gates are timber and are suitably designed, as is the fixed metal viewing gate that is proposed. The timber handrails that support the proposed steps to the northern pedestrian entrance/exit, which adjoins with a stone faced retaining wall aside the steps, is also considered to provide a suitable detail. The low block wall to the northern border is to be replaced with a higher wall finished in reclaimed stone, to a more contextual height with the walls locally,, which also provides a suitable detail and an enhancement to the immediate area.

This scheme includes a design specification that is considered acceptable in the context and aligned with the aims and objectives of Policy DE1 of the Local Plan.

2. Visual / landscape impact

Consideration of the wider impact of the proposals upon the landscape character, including the impact of its use, has been considered.

The site sits in the context of the Beach Road and Harbour Character Area, as identified within the Babbacombe Downs Conservation Area Appraisal. The area consists of the early hamlet and the north facing slopes that sit above the harbour, where buildings are informally grouped.

The landscape and visual impact appraisal concludes that there are some wider middle and long views to the site however impact would be minimal due to topography and the existing and proposed screening. Short views have not been assessed however they are also likely to be limited due to the screening provided by the existing and proposed border treatments, the screening from vegetation and the ground levels which inform views that are possible in to the site..

Policy C2 of the Local Plan provides guidance on proposals that may affect the coastal landscape. The Policy cites that proposals will be supported where they maintain the unspoilt character of the coastline, maintain or improve public access for recreation, and provide sensitive designed development, including tourism uses. In the developed areas of coast it cites that development will be permitted where it provides benefit to Torbay's economy and does not unacceptably harm the landscape.

The site sits in "undeveloped coast" as identified within the Local Plan, however

the character of the area is informed by the sporadic development and the loose informal group of buildings that sit in the area.

Considering the broad character of the area and the level of screening and limited views to the site the physical works, along with the resultant use of the land as a car park, is considered likely to present limited demonstrable impact upon the landscape character of the area. The proposal is considered to sit comfortably with the aims and objectives of Policy C2 of the Local Plan for these reasons.

3. Impact upon listed buildings and the Babbacombe Conservation Area

The impact upon the various listed buildings in the locality and their settings has been considered.

The closest listed building is the "The Grove" which sits immediately to the south of the site on higher land across the public footpath. Although The Grove and its curtilage sits on higher ground the height of the southern boundary wall of the site, together with the lowered height of the land adjacent that will hold the bulk of the parking spaces, will screen views. In addition the layout and planting near to the entrance of the car park will screen the development from views when approaching the listed building along the spur road. The listed building and its setting is not considered to be demonstrably affected for these reasons.

To the west three further listed buildings are set off the spur road however due to the orientation of the buildings and the local topography these buildings and their settings would also be unaffected by the development.

Further to the west over 200metres away is Babbacombe Cliff, a grade 2 listed building in use as flats. Within the curtilage of this building there is a view eastwards through foliage towards the coastal slopes, including the site of the proposed development. The Conservation Officer considers that the development, through its use, would have an impact upon the setting of the listed building however that the harm would be less than substantial. The level of harm is considered to be limited as the development will be viewed amongst other buildings and development. The NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal will result in public benefit by removing the incongruous block boundary wall and replacing it with a reclaimed stone wall, which will enhance the experience of the Conservation Area in the immediate area. Further it is accepted that as a private car park that will provide parking to support the expansion of the Cary Park Arms Hotel its provision will help the hotel to improve its holiday offer and its contribution to the economy.

On balance the effect upon the setting of the Babbacombe Cliff is considered limited due to the distance and the character of the view. Taking into account the

other benefits achieved by the development the impact is considered acceptable.

The proposal is considered compliant with Policy HE1 of the Local Plan in regard to its impact upon listed buildings and their settings, due to the secluded nature of the site and the level of existing and proposed screening.

In regard to the impact upon the Babbacombe Conservation Area the proposed development is considered to sit comfortably with the informally arranged holiday character of the harbour and coastal slopes, where pockets of development sit off the winding network of roads. There are only occasional views to the site and these appear secondary in places where the natural vista is aligned towards the coast and sea rather than the slopes. The screening ultimately limits any impact upon the Conservation Area.

In terms of short-view impacts upon the Conservation Area the rebuilding of the stone wall to replace the low block wall is an enhancement along the length of the northern border as indicated.

On balance subject to minor improvements to the landscape strategy to enhance the screening, with the improvements to the boundary detail the proposal is considered to have a neutral impact upon the conservation area and is compliant with Policy SS10 of the Local Plan.

4. Impact on Local Highways and Parking

The proposal seeks to provide supportive parking for the Cary Arms Hotel aligned with a condition of a previous planning permission to achieve additional parking prior to the occupation of approved accommodation.

The applicant has submitted details in support of the application that details that the Walls Hill Car Park is not a viable option for the business in terms of servicing guests due to its remote nature from the business and the complexities and impact of seeking a secured compound in this location.

The structural integrity of the spur road has been questioned in representations and the applicant has agreed to undertake an assessment of the road in terms of the impact of the additional use that is likely to result from the development. Any grant of permission should be subject to the conclusions drawn from these investigations and the implementation of any necessary mitigation works.

In terms of other highway matters movement and safety of vehicles and pedestrians has been considered.

The applicants are proposing measures to avoid conflict with vehicles passing on the spur road, including a valet only access to the car park and one way traffic light giving priority to vehicles entering into the spur road. In addition it is proposed that two vehicle passing spaces can be achieved along the spur road.

The provision of a valet service and the two measures outlined above will alleviate the vast majority of conflicts between road users.

On the basis of the detail above the highway impact is considered limited, subject to the following:

- The structural survey details should be acceptable to the Highway Authority and any works identified as needed should be carried out before commencement of the car park's use.
- The passing places should be provided through a S278 agreement prior to first use of the car park along with any works necessary to facilitate the approved management plan.
- An exit traffic light system shall be put in place before the first use of the car park with full details being approved by the Council prior to the first use of the car park (and maintained thereafter). The use of the car park should be limited to hotel guests via a valet controlled scheme, the details of which should be approved by the Council prior to the car park's occupation.
- Details of lighting of the footpath should be submitted before the first use of the car park.

Given the narrowness of the spur road it would also be appropriate to require a construction statement from the applicant detailing how amenity impacts can be minimised during the car park's construction.

On balance subject to the measures above the Council's Strategic Highways Officer and the Highway Authority are satisfied that the proposal is acceptable on highway merit.

The proposal is considered to comply with the aims and objectives of Policies TA2 and TA3.

5. Ecology

The application is accompanied by an Ecological Appraisal comprising desk study, Phase 1 Habitat Survey and subsequent Phase 2 survey for dormice.

The reports recommend the following mitigation and enhancement:

During construction

- Removal of vegetation suitable for nesting birds shall be undertaken outside the main bird nesting season of March - August or following pre-clearance confirmation from an ecologist that no breeding birds are present.
- Adherence to the Environment Agency's pollution prevention guidelines to

ensure no indirect impacts to the nearby cSAC or SSSI.

- A sloping plank to be left in any excavations deeper than 1m that will be left open overnight to avoid trapping of mammals including badgers. Pipes over 250mm to be capped or covered wherever possible to deter badgers from entering.
- Identify and remove or demarcate Japanese Knotweed on approach road to ensure it is not spread onto or beyond the site during vehicle movement.
- Dismantling of rock and wood piles suitable for reptiles during warm weather between April and September.
- Construction works to be limited to daylight hours (at least 15 minutes after sunrise and no later than 15 minutes before sunset) to avoid need for artificial lighting and light spillage into bat flight lines.

Post construction

- Sensitive lighting design post construction to minimise light spill on new and retained habitat and surrounding mature trees.
- Semi-mature trees to north and south to be retained and supplemented with additional native tree and shrub planting.
- Minimum 3 bat boxes suitable for different species to be installed on retained or adjacent trees on a southerly aspect at minimum height of 3m away from lit area.
- Minimum of 3 general purpose bird boxes to be installed on retained semi-mature trees away from lit areas.
- Creation of habitat piles suitable for basking or hibernating reptiles to be constructed

In light of the accompanying technical documents and the summary findings outlined above the ecological baseline is not considered a constraint to development subject to suitable management and mitigation measures.

The proposal is recommended for approval on ecology grounds subject to the following conditions;

- Pre-commencement submission and agreement of a Construction Management Plan to include full details of proposed ecological mitigation during construction.
- Post construction ecological mitigation and on-going management and maintenance of the new and retained habitats to be undertaken in accordance

with the Ecological Appraisal produced by Devon Wildlife Consultants in November 2015 with locations of ecological features and lighting as shown on Drawing Number 478.006 P2.

Natural England has confirmed that the adjacent SSSI does not represent a constraint in determining the application.

With suitable conditions attached the proposal is considered compliant with Policy NC1 of the Local Plan.

6. Impact upon local amenity

The impact of the proposals upon amenity, through noise and disturbance, is considered below.

The car park will be accessed directly off the highway network and although the development is likely to result in the increased vehicular use of the spur road the impact of any increased use upon adjacent occupiers of dwellings off this road is not considered demonstrable. Use of a highway for traffic should be expected and the level of increased use is not expected to be significant. Cars will be travelling at low speeds due to the nature of the road which will also help limit general noise and disturbance..

The noise and nuisance that may result from the use of the land the car park will be largely screened from adjacent plots by walls and planting. This will limit any likely impact of headlights outside the hours of daytime. In regard to noise disturbance the use as a private car park to serve the guests of a hotel is likely to result in less movement than a public car park and is unlikely to demonstrably affect local amenity.

With limited impact upon amenity the proposal is considered to comply with the aims and objectives of Local Plan Policies DE1 and DE3.

7. Flood risk

In terms of flood risk development must be safe for its lifetime and take into account the likely impact of climate change, ensuring flood risk elsewhere is not increased.

Torbay is designated as a Critical Drainage Area and hence the impact of surface water is an important material consideration.

Policy ER1 provides advice in regard to flood risk and management and identifies a hierarchy that all development must respond to, which includes the assumption that all development should be served by soakaways unless the site constraints prove this unachievable.

The development is supported by a FRA that informs that the development is not capable of being served by soakaways. The Council's Drainage Department do

not dispute this. In the absence of the ability to service the development via soakaways the proposal details that an attenuated solution will be provided. The Council's Drainage Department have highlighted that the discharge rates stated within the document are not acceptable and there is uncertainty that flood risk would not be increased.

Prior to the grant of permission certainty should be achieved on the above and additional detail on the design of the attenuation and discharge should be achieved.

Until the above concern has been sufficiently addressed the proposal is not considered suitable for approval on flood risk grounds in order to comply with Policy ER1 of the Local Plan.

S106/CIL -

N/A.

Conclusions

The applicant shall investigate and adequately satisfy the LPA that the spur road is structurally sound and capable of acceptable the additional traffic that would result from the development.

The applicant shall submit additional information to the satisfaction of the LPA in regard to the detailed design of the surface water attenuation and discharge.

Should the applicant submit further information to satisfy the LPA in regard to the two matters cited above the proposal is considered suitable for planning approval subject to a number of conditions, to include;

1. Enter in to a s278 highways agreement to achieve the two identified passing places and any other necessary works in order to facilitate the implementation of any approved management plan
2. Approval of a car parking management plan designed to achieve valet servicing and as far as practicable limit conflicting movement to and from the site
3. Submission of an amended landscape scheme including planting and maintenance details
4. Submission of a construction management plan to limit impact upon ecology
5. Submission of a post-development ecological management plan to enhance biodiversity
6. Provision of the boundary enhancements prior to its first use

Relevant Policies

-

Agenda Item 12

Application Number

P/2015/1225

Site Address

Former Jewson Ltd
St James Road
Torquay
TQ1 4AZ

Case Officer

Mrs Ruth Robinson

Ward

Description

Conversion of loft space and part enclosure of roof terrace to form 4no. additional apartments, two with access to open roof terrace. Alterations to external elevations. Increase in car parking provision from 20 to 22 spaces.

Executive Summary/Key Outcomes

This application relates to the former Jewsons Builders Merchants on St James Road.

A scheme to construct 24 flats with 20 car parking spaces and a new office base for a local building company was considered by the Development Management Committee in February 2015 and again in October 2015, and it was resolved to grant planning permission subject to the completion of a S106 agreement. The agreement was completed on 18th February and it is anticipated that consent will be issued in the near future. . This development is largely complete.

The proposal now for consideration involves the conversion of the existing loft space and part enclosure of the proposed roof terrace to form 4 additional apartments and the inclusion of 2 additional car parking spaces.

The key issues arising from this are: the reduction in the level of amenity space available to serve the future residents of the site through the construction of flats on the communal roof garden, the impact on the amenity of neighbours through overlooking, the design of the roof extension and the shortfall in car parking provision.

In respect of the shortfall in amenity space, a revised proposal was considered by the DMC in October 2015 that restricted the use of the roof terrace to only six flats (in the original submission it was intended to be available to all residents). Consequently the roof terrace as currently approved is considered to be of somewhat limited value as amenity space

The impact on neighbours, arising from the residential use of the roof terrace, is limited due to the distances involved. However this is capable of mitigation

through the introduction of properly designed screening. The approved scheme delivers landscaping along the boundary to mitigate any immediate impacts.

The design of the roof extension is beneficial in terms of creating a more consistent treatment between the front and rear elements of the new block.

In respect of car parking, the scheme can be considered compliant with policy TA3 of the Adopted Local Plan as this allows flexibility over the level of provision in areas such as this that are centrally placed and well located in respect of other forms of transportation.

The circumstances of the site also need to be taken into account in considering the shortfall in parking. The previous use of the site as a Builders Merchants would have had an impact on local parking levels and the fact that when works are complete, the reinstatement of the pavement in place of dropped kerbs across the frontage of the site will allow the creation of more on street parking. This is secured as part of the existing consent.

Nonetheless there are localised parking issues which have to be taken considered and measures which could alleviate the situation.

These are the possibility of introducing a resident parking scheme which is in demand locally and general improvements to the existing road layout and arrangement of spaces to increase on street capacity. Highway Officers estimate that a contribution of £10,000 could deliver the necessary improvements.

It is considered, on balance that the proposals are acceptable subject to details of screening being provided, adequate mitigation in respect of the loss of amenity space and shortfall in car parking through full compliance with the SPD 'Planning Contributions and Affordable Housing' to achieve contributions towards Greenspace and Sustainable Transport and the delivery of measures to overcome localised parking problems.

It is also of note that the works to create the 4 additional flats are well advanced. The applicants have been advised that these works are carried out entirely at their own risk.

Recommendation

Conditional approval; subject to the submission of details of screening, compliance with the requirements of Strategic Transport regarding cycle parking, electric charging points, provision for disabled users and a signed s106 legal agreement/unilateral undertaking within 3 months of the date of this committee to secure the agreed level of AH/S106 contributions and a contribution of up to £10,000 towards local parking mitigation measures.

Statutory Determination Period

This application has an 8 week determination period. This expires on the 8th March.(RR - can we get an extension of time please, covering the S106 period)

Site Details

The application site, at one time a quarry, was formerly a Building Merchants with retail sales.

It has recently been redeveloped to provide a three storey residential block of 24 flats with an office base for a local contractors firm located to the rear of the site.

The new residential building is a similar scale to the former builder's merchants.

It comprises a T shaped block: the street facing block has a steeply pitched roof. The rear wing, which extends back into the quarry is set at a lower level, has a flat roof with parapet walls which was to be used to provide a communal garden to serve 6 of the proposed flats.

The area is predominantly residential in character and comprises tightly developed 2 storey terraced dwellings.

To the east of the site is a small chapel in use as a Nursery and beyond this, St James School.

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

In the Torbay Local Plan 2012-2030 there are no allocations relating to the site.

Detailed Proposals

This detailed application is for the construction of 4 flats (2 x 1 Bed and 2x 2 beds) utilising the existing loft space in the street facing block and occupying a new roof extension to be constructed on the proposed roof terrace.

The 2 x 2 bed flats which will occupy the new roof extension each have access to extensive roof terraces.

It is proposed to include 2 extra car parking spaces to serve these flats within the site by rearranging the approved car parking layout and including some space currently within the adjacent commercial part of the site.

Summary Of Consultation Responses

Strategic Highways: Have no objection to the reduced parking levels subject to the submission of a Travel Plan. (RR - how will the travel plan be monitored) They require the level and quality of cycle parking be upgraded as well as provision for disabled drivers.

Highway: Are concerned at the shortfall in parking but consider that there are opportunities, which this scheme should fund to mitigate this impact through works to improve the arrangement of car parking and to explore the implementation of resident parking schemes. A figure of £10,000 is requested. (Suggested is too weak - we need to be clear of cost or use 'required')

Affordable Housing Manager: Is concerned that piecemeal increases in capacity should lead to a reconsideration of Affordable Housing contributions. Comments are awaited.

Summary Of Representations

There have been 5 letters of objection raising concerns about loss of privacy, a lack of car parking, the impact of this development on a busy heavily parked road and concerns about what the applicant is doing to part of the quarry site beyond the red line boundary of this site. 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.

P/2014/1231/MPA: Development of 24 residential units and Office Store: current application.

Key Issues/Material Considerations

The key issues are:

1. The reduction in the level of amenity space available to serve the future residents of the site through the construction of flats on the communal roof garden.
2. The design of the roof extension.
3. The impact on the amenity of neighbours through overlooking.
4. The lack of car parking.
5. Whether adequate mitigation can be achieved for the shortfall in amenity space and onsite car parking.

The relevant policies in the Adopted Local Plan are DE1 regarding design quality, DE3 regarding design amenity, TA 3 regarding parking provision and SS7 regarding community infrastructure contributions.

Each of these issues will be addressed in turn.

1. Loss of Amenity Space.

The original application for redevelopment of this site for 24 flats was considered and approved in principle by Members in February and October 2015.

Much of the site area was devoted to car parking with only limited opportunity for useable amenity space to serve future occupants of the site.

Compensation for this shortfall took the form of a) ensuring that the spaces around the building were well designed with good quality materials and an exemplar landscape scheme and b) including balconies where feasible and c) securing the use of the flat roof to the rear wing as a landscaped communal roof garden with access for all residents.

A subsequent amendment to this scheme, which DMC agreed at its meeting of in October 2015 involved a reduction in the number of flats having access to this space from 24 to 6. This was generated by the applicant due to concerns about the difficulties of management of this space and a desire to avoid nuisance to future occupiers of the site and to near neighbours. This amendment also saw the landscape proposals for this space removed to leave areas of open terrace which would be left to future occupiers to resolve.

This further revision, arising as a consequence of this application, involves these 6 flats losing access to amenity space as the larger part of the roof terrace is devoted to the construction of a roof extension to accommodate 2 further flats. These do however retain access to what remains of the former terrace.

Policy DE3 of the Adopted Local Plan requires a minimum provision of 10 sq m of external amenity space per flat. This proposal diminishes the level of space available to serve 6 of the flats and includes 2 additional flats in the roof space which have no access to amenity space at all.

The question is whether this is acceptable? To answer this, it is necessary to consider the value of the proposed roof garden, how it would be used, whether its use would have compromised the amenity of neighbours and whether the shortfall on site can be mitigated.

The value of the roof garden as a means of compensating for the lack of amenity space was diminished by the most recent amendment to the scheme. It reduced the number of households that would benefit and the deletion of the proposed landscape proposals lessened the purpose and value of the space.

Concerns about the ability to 'manage' the use of this space led to this change to the scheme. Whilst a management plan to control possible noise and nuisance was requested pursuant to a condition on the approved scheme, there is a risk that without ongoing commitment from the developer nuisance may become an issue.

The use of the space as a roof garden and the impact on privacy has figured in local objection to the current application and insistence on it being provided may have resulted in an ongoing enforcement problem.

It is therefore considered, on balance that the loss of the majority of the roof terrace should be accepted and contributions sought to improve facilities at nearby Upton Park as mitigation.

2. Design of the roof extension.

The previous amendment to the scheme, considered by Members in October 2015 introduced a more steeply pitched roof to the main block facing the street. This arose from changes to the foundation design necessitated by the rock form in the quarry floor.

The roof extension takes the form of a mansard and is set behind a parapet wall which extends around the rear wing. From a design point of view this is beneficial as it marries together the form of the roof to the street elevation with that of the rear wing so creating a more cohesive treatment of key elevations.

The roof extension includes 4 dormer windows to each side. The living accommodation has access onto large terraces but directly overlooks the quarry face to the rear of the site. It is this considered that from a design perspective the scheme is acceptable.

3. The Impact on Neighbours.

Objections to the current application have been received from neighbours concerned at loss of privacy through including residential accommodation on the roof. The impact of this is likely to be less than if the space remained as a communal roof terrace.

Objections regarding loss of privacy largely come from properties on Forest Road which is some distance away. However a closer neighbour does raise concern about overlooking her garden from the retained terrace serving the new flats but this can be mitigated by 'designed in screening' to offset side views. This should be provided prior to a decision being issued.

This is to ensure that the development complies with Policy DE3 and minimises the impact on neighbours.

4. Adequacy of Parking Levels.

The site is located in an area that is generally heavily parked and reliant on 'on street' car parking to meet residents needs. The site is close to St James School which generates much car parking demand at the start and end of the school day.

The impact of the development on local car parking levels has long been a key issue for local residents and is a matter of significant concern to Ward Members. The concern is that the congested nature of the street in terms of traffic movement and car parking will be exacerbated by any further development of this site.

The scheme as approved provides 24 flats with 20 on site car parking places. It was agreed by DMC that this was in accordance with Policy T25 of the then Adopted Local Plan which indicated a maximum parking provision of 1 space per unit plus 1 space per 2 units for visitor use. This policy defined a maximum scale of provision and some flexibility was allowed if the site was, as this is, well located in relation to services and public transport.

The current application involves the provision of 4 additional flats but only 2 new parking spaces. These are shown as being located to the rear of the site and include space previously included within the commercial part of the site.

The newly Adopted Local Plan Policy TA3 indicates 1 space per flat but does not specify the level of visitors spaces required. It does state, similar to Policy T25, that in locations such as town centres where there is a greater choice of transport this standard may be reduced.

Strategic Transport has confirmed that in policy terms, given the central location of the site and its proximity to other forms of transport then they do not object to the slight shortfall in parking subject to the provision of a Travel Plan, compliance with cycle parking standards, electric charging points, provision for disabled users and delivery of sustainable transport contributions.

It is also necessary to take into account that the previous use of the site 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 redevelopment of the site has also exacerbated localised parking problems which will ease when works have finished.

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 to ensure that Jewsons could be serviced when operational.

The approved scheme achieves reinstatement of the pavement along the frontage to the site which will allow the provision of new on street car parking. This will help mitigate the shortfall in on site provision on this site.

Highway Officers do have concerns about localised parking issues but have indicated that their concerns may be met by works to improve the arrangement of spaces along the road and through the introduction of a resident parking scheme. This would be subject to consultation but the costs of implementation (approximately £10,000) could be met by this scheme.

An update for Members will be given on this at the meeting.

It is thus considered that due to the circumstances of the site, its location and history and the opportunities for mitigation it would not be justified to refuse the

application for a lack of parking as it complies with Policy TA3 of the Adopted Local Plan.

5. S106 Contributions and Affordable Housing Provision

As approved, the scheme for 24 flats did not deliver any affordable housing contributions. This was based on a viability study that took into account the abnormal costs of construction arising from the extensive works to the quarry face that were required. The Affordable Housing manager has asked that this be reconsidered in light of the 4 new dwellings now being provided. Comments from him are awaited.

The scheme should, due to the shortfall in amenity space and car parking, provide in full the greenspace and sustainable transport contributions as defined in the Adopted SPD 'Planning Contributions and Affordable Housing'. This amounts to £8,860 towards meeting sustainable transport contributions and £6980 towards improvements to Upton Park. A figure of £10,000 is requested by Highway Officers to fund local improvements to parking capacity.

It should be noted that the Committee's decision in October 2015 secured the provision of £30,000 towards community infrastructure contributions, the provision of a reassessment of viability and deferred contributions in relation to affordable housing if the scheme is not complete within three years and the costs of Traffic Regulation Orders/pavement reinstatement if appropriate.

Conclusions

The scheme to include 4 additional flats with only 2 additional car parking spaces on this site is considered, on balance acceptable. The deficiencies in the scheme relate to a shortfall in parking provision and on site amenity space.

In respect of the former, the proposal is compliant with policy TA3 of the Adopted Local Plan which allows flexibility over the level of provision in areas that are centrally placed and well located in respect of other forms of transportation. The circumstances of the site also need to be taken into account. These are the previous use of the site as a Builders Merchants which had an impact on local parking levels and the fact that when works are complete, the reinstatement of a pavement frontage in place of dropped kerbs across the frontage of the site will allow the creation of more on street parking.

However, there are localised parking problems and measures have been identified which could ease these problems. Highway Officers suggest these could cost up to £10,000. Members will be updated on this at the meeting.

In respect of the shortfall in amenity space, the roof terrace was of limited value and could have had led to problems of nuisance if not managed effectively.

This shortfall can be mitigated by the investment of the greenspace contribution

in the nearby Upton Park.

Recommendation

Conditional approval; subject to the submission of details of screening, compliance with the requirements of Strategic Transport regarding cycle parking, electric charging points, provision for disabled users and a signed s106 legal agreement/unilateral undertaking within 3 months of the date of this committee to secure the agreed level of AH/S106 contributions and a contribution of up to £10,000 towards local parking mitigation measures.

Conditions

Lighting scheme to mitigate impact on bats.
Implementation of car parking/cycle storage.
Travel Plan.

Relevant Policies

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Application Number

P/2016/0093

Site Address

28 Shiphay Avenue
Torquay
TQ2 7EA

Case Officer

Mr Robert Pierce

Ward

Shiphay With The Willows

Description

Side extension

Executive Summary/Key Outcomes

The site contains a detached gable fronted bungalow which stands on the south side of Shiphay Avenue. The property has a small flat roofed dormer window in the front elevation and a larger one to the rear. It also has a flat roofed garage attached to the side of the property which is set back approximately 7 metres from the front of the gable.

The proposal seeks to form a flat roofed extension projecting out from the front of the existing garage by 3.9 metres and to convert the combined structures into additional ancillary living accommodation.

The proposal is considered to maintain the domestic character and appearance of the bungalow and will result in a building which will sit comfortably within the general scale of properties in the locality. There would be no discernible impact upon neighbour amenity. The proposal will result in the loss of on site parking but ample provision will remain within the frontage of the property.

The application is included on the agenda as it has been submitted by one of the Council's Building Control Officers.

Recommendation

Approval

Statutory Determination Period

The 8 week determination date expires on 24th March 2016

Site Details

Detached dormer bungalow set within a residential street that currently includes a mix of one and two storey properties of varying scale and character. Parking is provided to the front and there is an attached garage to the side. The principal amenity space for the property is set to the rear within a large garden which backs onto the grounds of the Torquay Girls Grammar School.

Detailed Proposals

A small single storey flat roofed extension to the front of the existing garage at the side of the property. This will provide the opportunity to revise the habitable space within the dwelling by converting the combined structures into additional ancillary living accommodation. The extension will be rendered to match the parent property and will have a matching UPVC triple window and door set within its front elevation.

Summary Of Consultation Responses

None.

Summary Of Representations

None.

Relevant Planning History

None.

Key Issues/Material Considerations

Key issues are considered to be the visual impact on the streetscene, any impact on neighbouring living conditions, loss of on site car parking and floodrisk.

Visual impact -

The area has a mixed building form with no overriding architectural style. There is, however, a loosely established scale for the properties with gaps between. Considering the mixed form of the area, the proposal to form a small flat roofed extension will sit comfortably to the side of the property.

The extension would be set back behind the front of the property and therefore would be ancillary to the appearance of the dwelling.

In addition, the extent of this side development is limited and therefore predominantly retains the gap between the application site and the adjacent dwelling which is two storeys.

As such, the proposal is in accordance with Policy DE5.

Amenity issues -

The building line to the side will be maintained along the party boundary and the proposed extension would not notably alter the relationship between plots in terms of light received or the outlook enjoyed. There are no windows on the side elevation of the proposed extension and therefore privacy level will be maintained.

As such, the proposal is in accordance with Policy DE3.

Car Parking -

The proposal will result in a loss of off-street car parking however there will still be more than adequate car parking space within the frontage of the property, as it is capable of accommodating several cars.

As such, the proposal is in accordance with Policy TA3.

Flood risk -

A flood risk assessment has been submitted that confirms surface water will be disposed of by means of soakaways. Due to the site being within the critical drainage area it would be appropriate to include a condition, to the planning permission (if granted), to require that surface water drainage is addressed in accordance with the submitted flood risk assessment.

As such, the proposal is in accordance with Policies ER1 and ER2

Conclusions

The application will result in an acceptable addition to the property that does not harm the character or appearance of the area, will not have any adverse impact on neighbour amenity and will retain sufficient on site car parking. The proposal is consistent with the objectives of Policies DE1 (Design), DE3 (Development Amenity), and DE5 (Domestic Extensions), ER1(Flood Risk)and ER2 (Water Management), as such it is recommended for planning approval.

Condition(s)/Reason(s)

01. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no windows, doors or other openings, other than those shown on the approved plans, shall be constructed with the side (east) elevation of the development hereby approved.

Reason: In the interests of privacy of the neighbouring property, in accordance with Policies DE3 and DE5 of the Torbay Local Plan 2012-2030.

Relevant Policies

DE1 - Design

DE5 - Domestic extensions

DE3 - Development Amenity

Agenda Item 14

Proposed Local Development Order

South Devon College Campus , Long Road, Paignton

Exec Summary

Local Development Orders (LDOs)

A Local Development Order is a tool within the planning system which may be used by the Local Planning Authority in order to grant planning permission for certain types of development within a defined area, and by doing so, remove the need for planning applications to be made.

Benefits of an LDO

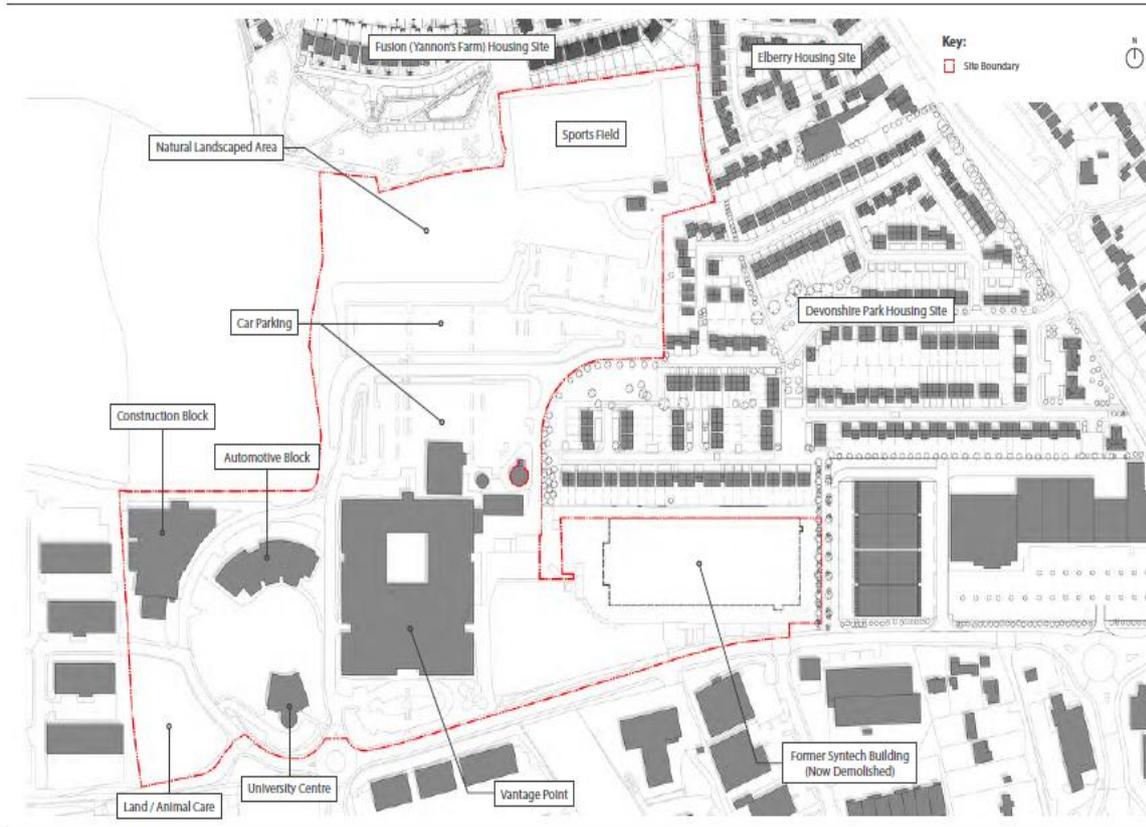
The granting of an LDO can improve certainty for development proposals, provide a more flexible approach to development or redevelopment, and encourage growth and investment on specific sites.

The proposed LDO Area

The site of the proposed LDO is the South Devon College Campus on Long Road in Paignton. The site includes the former “Syntech” site which is now in the College’s ownership. The site has an area of approximately 11.9 Hectares.

Figure 1 Site Plan

Below: Existing Site Plan



Local Development Order, South Devon College Design & Access Statement

The LDO Proposal

The LDO proposal is to grant permission for two classes of development that are considered to be supportive of the growth agenda of South Devon College as a key educational facility. The two classes of development are:

1. The provision of development that falls within use classes C2 (Residential Institutions) and D1 (Non-Residential Institutions) of the Town and Country (Use Classes) Order 1987 (As Amended) and student accommodation (Sui Generis Use), and;
2. The provision of small scale ancillary uses that support the primary use of the site as an educational facility.

Purpose of the LDO

The key purpose of the LDO is to simplify the planning process over the college site in order to help deliver flexibility and confidence for the College to implement an expansion program and to develop and adapt its facilities, to help unlock the educational and employment benefits that would come from expansion.

Proposed management of LDO development

The time span of the proposed LDO is 15 years from its adoption, which is aligned with the College's estates plan.

It is proposed that development granted under the LDO will be subject to meeting certain parameters (see section 8 of this report) and subject to a number of conditions, in order to inform and shape development and support the delivery of sustainable development that respects the physical, social and environmental constraints.

There is the ability for the LPA to amend or revoke the Order if it is not achieving the expected benefits.

Parameters for LDO Development

Development permitted under the LDO would be required to meet a number of proposed parameters. Prior to commencement of components of the overall development, those components shall be subject to a pre-notification process to the LPA to establish that the development falls within the parameters of the LDO. The proposed Parameters cover;

1. Maximum amount of new floor area across the site (23,000 square metres)
2. A spread of development across the various zones of the site
3. The maximum heights of buildings for each zone of the site
4. The amount and delivery of new car parking spaces across the site
5. Landscape expectations across the site
6. Architectural principles for development within each zone
7. Noise management expectations across the site
8. External lighting strategy across the site.

The proposed parameters are detailed in the accompanying LDO Statement of Reasons document. Once determined as LDO development proposals will be subject to a number of proposed conditions.

Conditions for LDO development

The attached conditions are proposed in order to achieve appropriate development that responds to Local Plan policy aspirations, the sites context and relevant physical, social and environmental constraints.

The proposed conditions are detailed in the accompanying LDO Statement of Reasons document.

Proposed conditions cover:

1. Compliance with associated technical documents that have informed the LDO
2. Approval from the LPA of surface and foul water details
3. Approval from the LPA of landscape details
4. Approval from the LPA of ecological management details
5. Approval from the LPA of external lighting details
6. Contamination
7. Approval from the LPA of transport impact and traffic management
8. Approval from the LPA of construction management details
9. Provision of parking and cycle parking provision
10. Approval from the LPA of servicing arrangements

Conclusions

The LDO will help support the College to deliver its growth agenda for the next 15 years and is considered to be aligned with the Local Plan Policy in terms of supporting improved education facilities and the delivery of well paid jobs.

The parameters and conditions will achieve development that will respect the physical, social and environmental constraints.

Recommendations

DMC supports the adoption of the LDO and recommends that the Mayor formally adopts the LDO on behalf of the Council as Local Planning Authority.

Figure 3. Indicative layout

Below: Indicative Artist's Impression



Local Development Order, South Devon College Design & Access Statement

2. Purpose of the LDO (framework)

The purpose of the LDO is to provide a simplified planning framework for the College in order to support the ambitions for growth and the delivery of a vibrant educational campus over the next 15 years.

It will deliver enhanced flexibility for the College to bring forward development as and when funding becomes available over the period of the Order and help maximise the success of the college by removing some of the barriers to securing funding that have been experienced through the shorter timescales of development permitted by way of planning permissions.

The LDO will only grant permission for uses that are supportive of the education facility as laid out within the Order.

The LDO includes detailed parameters for development to ensure that development will be provided where appropriate, including development at the appropriate heights and distances from borders, in order to limit impacts.

The LDO includes detailed conditions for development to satisfy in order to ensure that development responds to key physical, social and environmental factors, such as landscape sensitively, local amenity, ecology, flood risk and transport impacts.

Development not in accordance with the LDO will need to be determined by a planning application.

A 5 year review of the LDO will permit the LPA to reflect on the success and ongoing suitability in terms of changes in planning policy, which will permit the consideration of retaining it for the remaining 10 years, or retain with revisions, or revoke and cancel to LDO.

The LPA may also exercise its powers to amend or withdraw the order if it is satisfied that the Order has consistently failed to meet the objective of the LDO, subject to a period of notice to the landowner.

3. Policy - Local Plan

The LDO is considered consistent with the aspirations of the Local Plan.

The LDO will support the growth of the College as an educational facility. Policy SC3 (Education skills and labour) of the Local Plan seeks to support improvement of existing or new educational facilities to meet needs. SC3 also supports initiatives and development that improve skills and links between work and education, and particularly identifies South Devon College. The LDO is considered aligned with the aspirations of this policy.

The LDO will support the growth of the College and its contribution to the local economy in terms of job creation. Policy SS4 (The economy and employment) supports the improvement in the economic performance of Torbay and supports existing businesses and education facilities. It encourages new business and new investment. There is in principle support for proposals that deliver employment and high value jobs education is highlighted as one of the important growth sectors to help achieve this economic improvement. The LDO is considered aligned with the aspirations of this policy.

Policy SS11 (Sustainable communities) supports proposals that regenerate or lead to improvement of social, economical or environmental conditions, which includes the access to education and jobs. The LDO is considered aligned with the aspirations of this policy.

A series of technical assessments and surveys have been undertaken to inform the LDO in order to ensure that the Order is capable of achieving development that can be delivered without undue impact upon the physical, social and environmental constraints of the area.

4. Adoption

On adoption the LDO will provide a 15 year period to deliver the permitted forms of development.

Within this period only the forms of development that fall outside of the classified LDO Development will require planning permission.

LDO Development will be subject to scrutiny by the LPA in the following ways.

Firstly all development sought to be delivered through the LDO will be subject to a pre-notification process in order for the LPA to confirm conformity with the approved use classes and the defined parameters. Please refer to the Statement of Reasons document to review the detailed parameters.

Where the pre-notification process satisfies the LPA that the development accords with the classes of development and general parameters for development it will be necessary to accord with the proposed conditions. Please refer to the Statement of Reasons document for the list of conditions.

Although the LDO will grant the principle of development the pre-notification process will ensure that agreement is reached on compliance with the Order prior to commencing. Following this the requirement to satisfy the proposed conditions will ensure that where necessary appropriate detail is submitted and agreed by the LPA in order to ensure development respects and responds to relevant physical social and environmental constraints.

5. Consultation responses and public representations

Prior to the statutory consultation process the College undertook a public consultation exercise and the summary findings are available within the accompanying Statement of Community Involvement.

Following the formal consultation process three supportive comments from the public were received, along with support from the Paignton Neighbourhood forum. These are available to view within the Public Representations and all principally support the proposals as they will help deliver improvements to an important education facility and support economic prosperity.

Key consultation responses are summarised below:

Sport England: Support, as the proposals will not affect current sports pitch provision.

South West Water: Do not object, subject to satisfactory sewerage connections being achieved.

Environment Agency: Do not object, comments made in regard to conditions.

South Hams AONB: Does not object, but contends that new buildings should be no higher than existing and lighting plans should be achieved to limit night-time light-spill.

South Devon and Torbay CCG: No objection, comments made.

Community Safety: No objection, comments made.

Arboricultural Officer: No objection, scope exists for arboricultural betterment through the site and a condition on landscaping could achieve this along with understanding of protection or mitigation for removed trees.

Green Infrastructure Officer: No objection, conditions should be attached to ensure appropriate ecological protection, mitigation and enhancement is achieved.

Drainage Officer: Supporting detail appears satisfactory however further information is necessary at detailed design stage to establish accordance with the drainage hierarchy identified within the Local Plan and demonstration that the risk of flooding would not be increased elsewhere.

Natural England: No objection, comments made.

Police Liaison officer: No objection, comments made.

Strategic transport / Highways: No objection, comments made including in regard to mitigation measures to counter the impact of development on the highway network.

6. Uses

Section 6 of the proposed Local Development Order and Statement of Reasons proposes two classes of development that shall be granted permission under the provisions of the Order.

Class A:

Development for uses falling within use classes C2 (Residential Institutions) and D1 (Non-Residential Institutions) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and student accommodation (sui generis use)

Class A Development shall be subject to:

The proposed Parameters and Conditions

Class B:

Other Uses being limited to small-scale café, crèche, recreation and innovation/pre-incubation facilities falling within use classes A3 to A5, B1 and D2 respectively of the Town and Country Planning (Use Classes) Order 1987 (as amended)

Class B Development shall be Subject to:

- a) The proposed Parameters
- b) The proposed conditions when development floor area is greater than 200sqm
- c) Such uses remaining ancillary to the primary use of the Site [i.e. pre-existing uses and those permitted by Class A]
- d) Such uses not exceeding a total of 3000 sq m in the area subject to the Local Development Order

The proposed classes of development are considered to support the provision of uses complementary to the College as an educational facility.

Minor operations

In addition to the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 , or its successor, the LDO proposes to permit minor operational development in-line with the following:

Changes to external appearance of buildings, including recladding, alterations to doors and windows

Changes to access to buildings

Installation of plant or small-scale micro renewable energy development

Reorganisation of vehicle parking

Provision of cycle parking

Provision of covered bin stores

Class A development

C2 Use Class is for forms of residential institutions and is considered acceptable in terms of planning policy and land use as it will permit the College development of residential education or training facilities.

D1 Use Class is for forms of non-residential institutions and is considered acceptable in terms of planning policy and land use as it will permit the College development in the form of education and training facilities.

Student accommodation is a Sui Generis use and is considered complimentary to the broad educational facility.

Class B Development

Other uses complimentary and ancillary to the primary use of the College are considered an acceptable form of development. The maximum cumulative provision of such development will be 3000sqm through the site under the LDO, which is considered an appropriate threshold.

Minor Operations

The six minor operations are individually and collectively considered acceptable and supportive of the concept of flexibility and freeing up the planning regimes over the land in order to aid delivery of growth and regeneration.

7. Zones

The LDO identifies 7 geographical / character areas. The Zones can be viewed within the accompanying Design and Access Statement (Page 13).

The 7 Zones are:

Zone A: Vantage Point Zone (fronting Long Road)

Zone B: West Campus Zone (fronting Long Road and encompasses the University Centre)

Zone C: East Campus Ex-Syntech Zone (fronting Long Road and the former Syntech site)

Zone D: Rear Lower Car park Zone (to the north of the Vantage Building)

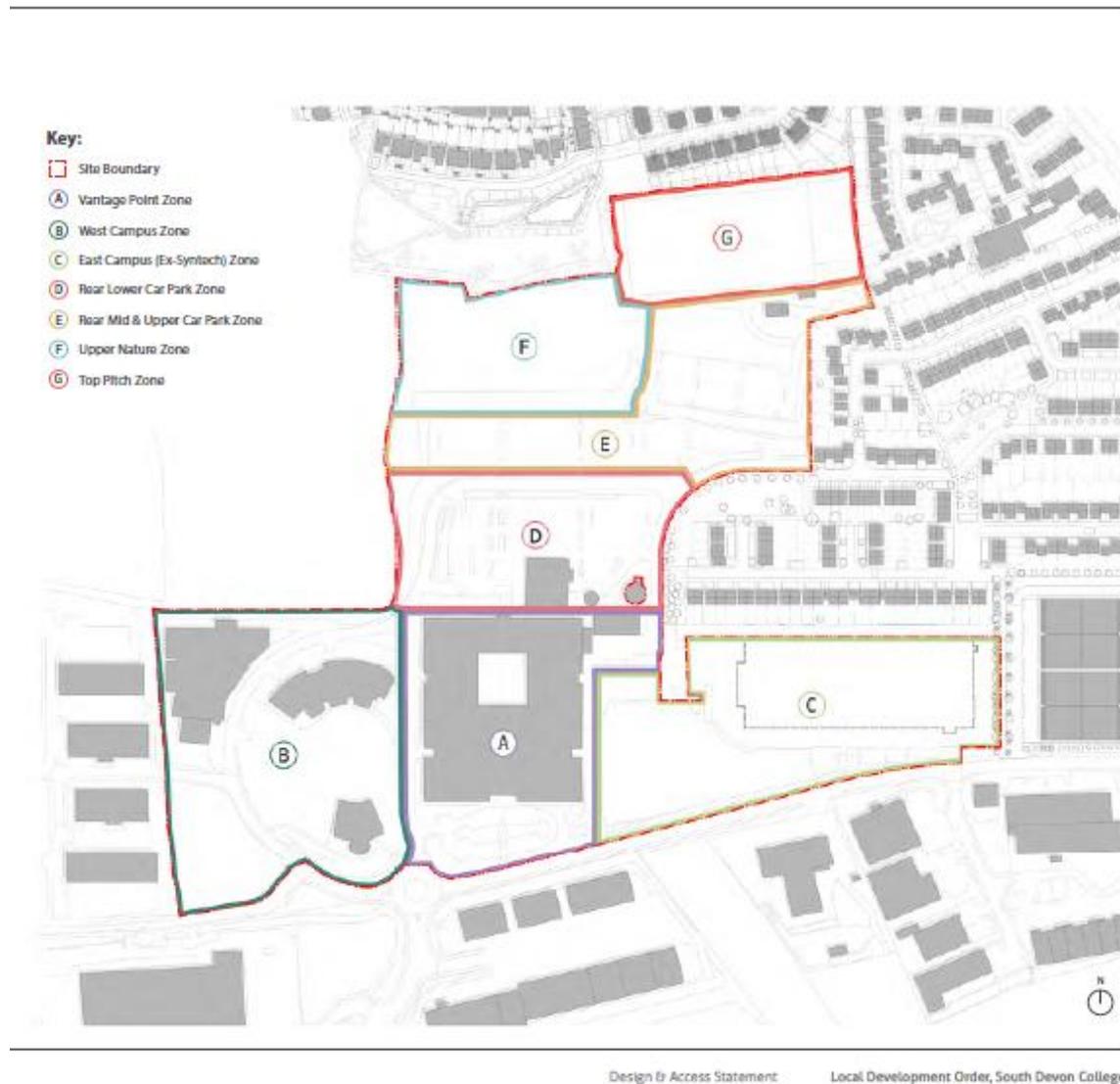
Zone E: Mid and Upper Car Park Zone (to the north of the Zone D)

Zone F: Upper Nature Zone (to the north of Zone E)

Zone G: Top Pitch Zone (north east corner of the site / current grass pitch area)

The use of a number of smaller geographical zones permits a greater understanding and control for the delivery of appropriate levels and forms of LDO development through the site that respects the changing landscape and ecological constraints of each area.

Figure 4 Zone Map



8. Proposed Parameters & conditions

Section 6 of the proposed Local Development Order and Statement of Reasons proposes 8 Parameters for development. See Table A: LDO Development Parameters for the precise detail.

The provision of parameters provides the basic principles for what the LDO will permit beyond the permitted Use Classes.

The parameters include:

Amount of development

Parameter 1 is that the quantum of LDO development shall be capped at 23,000sqm of new floor space.

The location of development

Parameter 2 is that the amount of development within each zone is detailed and, within the more sensitive zones, capped or excluded altogether.

Scale of development

Parameter 3 is that the maximum height of development is capped for each zone to reflect the character and sensitivity of each area.

Parking

Parameter 4 is that the amount of new parking has been capped at an additional 220 spaces over the College's current provision, which presently includes 300 off-site spaces that are leased on the adjacent Devonshire Park site to the east. The 300 spaces will be displaced from the adjacent site and provided within the college grounds through the LDO in addition to the net new 200 spaces

The parking shall be provided proportionate with new floor space.

Landscape

Parameter 5 is that landscaping and landscape features shall be designed to provide and maintain a high quality public realm and reinforce legibility through the site and ecological sensitivity. This parameter also ensures the strategic landscape character of the area will be maintained and enhanced.

Architectural materials

Parameter 6 is that development maintains and builds upon the vision of a high quality built environment for the campus and responds to the context of each zone / character area.

Noise Management

Parameter 7 is that external plant shall be designed to limit noise to nearest receivers and the adequate mitigation shall be achieved to ensure typical activity of building use or car parks shall not unduly affect amenity.

Lighting strategy

Parameter 8 is that new external lighting shall limit light-spill through design and respond to the sensitivities of the wider dark landscape and ecological context.

9. Consideration in regard to achieving sustainable development and responding to key issues

Principle of uses

The principle of the uses that are proposed has been considered against the aims and objectives of the Local Plan. The uses outlined in the Order are considered acceptable.

Class A proposes non-residential institution uses, residential institutions uses, and student accommodation. Schools and colleges fall under the institutional classes outlined, depending on the character of the provision. The uses are hence directly aligned and supportive of the use and

character of the College site as a large scale educational campus. Student accommodation is also considered an acceptable form of use.

The provision of ancillary uses supportive of the primary use of the site is considered acceptable and characteristic to a large campus style education facility where small-scale broader uses complement the dominant educational use.

Design and scale

The design of development will be compliant with the detail expressed in the accompanying documentation, most notably the Design & Access Statement, achieved through the imposition of a general condition.

The design and access statement cites the core objective of creating a distinctive contemporary campus through the provision of high quality buildings that blend uniqueness with forging a cohesive campus character

The imposition of a parameter in regard to architectural character and materials reinforces the expectation for development to maintain and build upon the vision of a high quality built environment. Zone limitations within the parameter will ensure that development respects the responds to the immediate context.

In regard to scale all development will be informed by Parameter 2 (Building Heights) which sets out the maximum height of buildings within each defined zone. The proposed building heights respond to the dominant building height where one exists and acceptable building heights where zones are absent of a predominant building reference.

The LDO is considered to support and inform well-designed and suitably scaled building forms, which relate to the different character zones of the site.

Landscape and visual impact

The supporting LDO documentation ensures that development responds to the urban context of the southern and eastern parts of the site and with the more rural context in the northern and western fringes.

The zonal floor space parameter and building height parameter reinforces the concept that the majority of the quantum of development, and the taller buildings, will be provided in the less visually sensitive zones. The zones to the north that are considered more sensitive are specified to achieve lower level buildings or no development. This will ensure visual impact of buildings is limited.

The landscape parameter enshrines that landscape and landscape features shall be designed as an integral part of development. It furthers that landscape features of value such as hedgerows or woodland shall be retained and new features to benefit biodiversity integrated where appropriate.

The supporting documentation cites the importance of retaining important trees and hedgerows and the imposition of the landscape parameter and landscape condition will protect the landscape and landscape features and limit any landscape and visual impact.

The South Hams AONB Office does not object to development that respects the established building heights.

The LDO is considered to protect and support development that is respectful of the landscape context.

Flooding

The site sits in a Critical Drainage Area.

The flood risk assessment that has been submitted in support of the Order identifies a drainage strategy for the surface water run-off from this development. This strategy has been based on initial infiltration testing and geotechnical information. The proposals within the strategy appear satisfactory however further information will be required during the detailed design stage of the development.

Development proposals will be expected to follow the hierarchy for dealing with surface water run-off with infiltration techniques being the preferred method of surface water drainage. Only when the ground conditions are unsuitable should the developer progress to investigating a controlled discharge off the site, in-line with Local Plan Policy.

All LDO development will be subject to details of foul and surface water treatment being first submitted to and approved in writing by the LPA, which accords with advice from both South West Water and the Authority's Drainage Department.

The imposition of a condition relating to surface and foul water treatments being considered by the LPA will ensure that flood risk is not increased as a result of LDO development.

Ecology

There are no designated sites of nature conservation within the site or immediately adjoining the site. The site does however lie within the sustenance zone of the Greater Horseshoe Bat Colony due to its proximity to the roost at Berry Head.

The LDO has been informed by an Ecological Impact Assessment (EAD, 2015) and the Authority has screened the development proposal and undertaken a Habitat Regulations Assessment (HRA) in order to establish any likely significant impact.

The HRA has concluded that subject to mitigation, which can be achieved by a number of proposed conditions, the LDO is unlikely to have a significant effect.

Natural England has concluded that the proposal unlikely to have a significant effect and therefore there is no requirement for any further assessment.

It is proposed that LDO development will be subject to conditions on dark boundaries, sensitive lighting strategies, construction environmental management plans, and landscape and ecological management plans.

The conditions will ensure suitable development in-light of the ecological sensitivities of the site.

The proposal has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to determine whether it is likely to have any significant effects on the environment. It was concluded that the proposed development is unlikely to have any significant effects on the environment by virtue of factors such as its nature, size or location.

Contamination

The LDO is supported by technical documentation relating to ground conditions.

In regard to the contamination of land and the risk posed to future users and neighbouring users it is proposed that if contamination is found no development shall begin until a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. This will be achieved by condition.

There is a moderate risk of contamination in groundwater. The Environment Agency concurs with the geo-environmental conclusions in regard to groundwater contamination and recommends the imposition of a condition for further details on mitigation measures should, if during development, contamination not previously identified is found to be present.

The Environment Agency has also identified that aquifers exist within the vicinity of the site and have suggested that details of all penetrative piling or foundation methods be submitted for approval, to prevent pollution to groundwater.

The LDO will inform appropriate development in terms of contamination and the risks from contamination through the imposition of conditions that respond to the matters outlined above.

Traffic and Movement

The proposed LDO will permit up to 23,000sqm of new floor space, which approximately provides 4000sqm of net additional floor space when considering the 14,000sqm of the former Syntech building and further buildings to be demolished.

The additional development will have an impact upon the highway network through additional trips, however it is concluded that the impact would not be severe.

It is reasonable to seek mitigation measures to respond to the likely impact of development permitted through the LDO, which may be achieved through physical works, or improvements and a modal shift towards more sustainable means of travel being achieved.

The context and likely impact has been considered by the Council's Strategic Planning Team and it is proposed that the expected impact of the LDO on the local highway network is achieved through the following measures:

1. Bus layby secured off Long Road via a s278 Highway Agreement (circa £50k)
2. Traffic calming through long road for build outs (@ £5k) secured by a s278 Highway Agreement
3. Implementation of Travel Plan measures by 2020 to achieve target modal split would waive the remainder of the contribution that would have been sought (£77k waived), achieved through condition.

In regard to car parking the LDO proposes 219 spaces, which is more than this minimum requirement and seeks to ensure that peaks in demand can be dealt with on site rather than spilling out on to the local highway network. So long as the above noted measures to reduce car use are put in place the number of spaces is not considered unreasonable.

Local Amenity

The proposed development parameters have emerged following consideration of neighbouring land uses. This includes the adjacent Devonshire Park site to the east being subject to future mixed use development including residential development.

It is important that the amenity of adjacent users is protected from harmful development, through unnecessary noise, dominance and loss of privacy for example.

The extent to which potential harmful impacts arise is usually dependant on proximity of buildings, the height and mass of buildings, the uses of buildings and any potential for overlooking from windows or raised areas.

To respond to amenity concerns there is a proposed parameter for all new buildings to be sited at least 5m from the outer boundaries of the LDO area. In addition the building heights parameter will limit the heights of buildings within certain areas, and the noise parameter will ensure that external plant is suitably designed in order to protect levels of amenity.

The LDO is detailed in order to ensure that appropriate development is secured which will provide for and protect suitable levels of amenity.

10. Monitoring, review, revocation

Monitoring

The pre-notification and conditions requirements will allow the LPA to monitor what development has been approved under the LDO and what development has commenced, and the cumulative amount of development built under the order.

Any development that does not comply with the terms and conditions of the order may be liable to enforcement proceedings.

Review

The LPA will review the LDO on the 5th anniversary of its adoption to be able to consider the continuing suitability of the Order in light of any changes to planning policy. The review will give the LPA the options to either retain the LDO for the remaining 10 years, revise the LDO to respond to changing policy, or revoke and cancel the LDO.

Revocation

The LPA may exercise powers to amend or withdraw the LDO if it is satisfied that the Order has consistently failed to meet its objectives as set out in the Statement of Reasons or if changes in material considerations

11. Conclusions

The LDO will provide the College with more certainty on the delivery of its expansion goals as it will permit the delivery of a definitive amount of floor space over the period of the LDO for the specific classes of use outlined within the order. It will also provide greater clarity and certainty for funding organisations, which will in turn help deliver Local Plan objectives.

The LDO will also provide greater flexibility for the College to deliver development through the site and respond to the various drivers of development and their needs.

With greater certainty and flexibility the LDO will support economic and educational growth by removing barriers to development.

The proposed parameters secure acceptable outline principles that provide certainty over the amount of development, its placement through the site, and the height of buildings.

The proposed conditions will secure development that responds to social, physical and environmental constraints.

The monitoring, revocation and review process will permit the Council to amend or revoke the LDO should it be considered to be failing to deliver the Council's expectations.