



Friday, 1 September 2017

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 11 September 2017

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Torquay

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby
Councillor Lewis (B)
Councillor Hill
Councillor Morey

Councillor Stringer
Councillor Pentney
Councillor Winfield
Councillor Tolchard

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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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DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on 14 August 2017.
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. **17 Cleveland Road, Paignton (P/2017/0445)** (Pages 7 - 25)
Demolition and redevelopment to form 22 retirement apartments for the elderly including communal facilities, access, car parking, and landscaping.
6. **Premier Inn, Inn On The Quay, Tanners Road, Paignton (P/2017/0549)** (Pages 26 - 38)
Demolition of the single storey public conveniences. Erection of a three storey stilted annex to the west of the existing hotel (use Class C1) within the car park. Reconfiguration and extension of the car park. Installation of a plant enclosure containing 2 air conditioning units.

7. **Land Off Brixham Road - Former Nortel Site, Long Road, Paignton (P/2017/0571)** (Pages 39 - 59)
(Variation of conditions on planning application P/2014/0947/MOA):
Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing ,open space and landscaping. (Condition 32: Restrictive Goods Condition).
8. **Land adjacent to Brixham Road South of The Premier Inn Hotel (P/2017/0685)** (Pages 60 - 77)
Development of Innovation Centre (Use Class B1a and B1b) with associated parking and landscaping.
9. **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.
10. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 6 September 2017. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Development Management Committee

14 August 2017

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Hill, Morey, Stringer, Winfield, Tolchard, Doggett and Manning

(Also in attendance: Councillors Brooks and Robson)

17. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative and Liberal Democrat Groups, the membership of the Committee had been amended for this meeting by including Councillor Manning instead of Councillor Lewis (B) and Councillor Doggett instead of Councillor Pentney (respectively).

18. Minutes

The Minutes of the meeting of the Development Management Committee held on 10 July 2017 were confirmed as a correct record and signed by the Chairman.

19. Land Rear Of 57 Fore Street, Brixham (P/2017/0473/OA)

The Committee considered an application for the formation of dwelling (access, appearance, layout and scale only).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to view on the Council's website.

Resolved:

Approved with the conditions set out in the submitted report and the final drafting of conditions being delegated to the Executive Head of Business Services.

20. Half Moon Inn, 188 Torquay Road, Paignton (P/2016/1266/MPA)

It was noted that this application had been withdrawn by the applicant.

21. Epwin Group Plc, Alders Way, Paignton (P/2017/0425/PA)

The Committee considered an application for change of use from Class B2 (General Industrial) to Class D2 (Assembly and Leisure).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to view on the Council's website. At the meeting Simon Buchanan addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Robson addressed the Committee.

Resolved:

Approved subject to the receipt of a Traffic and Pedestrian Management Strategy and the final drafting of conditions, to include those set out in the submitted report, being delegated to the Executive Head for Business Services.

22. 128 Laura Grove, Paignton (P/2017/0608/HA)

The Committee considered an application for extensions and alterations to existing dwelling house to include loft conversion, raising of roof height and extensions to the roof, extension to the front and raised deck to rear (resubmission of P/2017/0346).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to view on the Council's website. At the meeting Robert Gregg addressed the Committee against the application and Martin Day addressed the Committee in support of the application.

Resolved:

Approved with the conditions set out in the submitted report and an additional condition to ensure the proposed additional parking area will be provided before use of the approved extension commences.

23. Cary Castle, 32 Cary Castle Drive, Torquay (P/2016/1265/PA)

The Committee considered an application for the restoration of Cary Castle, alterations and improvements to associated flats, including reduction in number of flats from 14 to 9, removal of partitions from Cary Castle, formation of new car parking for flats, and replacement of windows and doors (revised plans received 5/7/17 reducing size of parking area to 4 spaces).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to view on the Council's website. At the meeting David Brown addressed the Committee against the application and Steve Shirley addressed the Committee in support of the application.

Resolved:

Approved, subject to the final drafting of conditions including those set out in the submitted report being delegated to the Executive Head for Business Services,

plus an additional condition allocating the approved parking spaces to specific flats.

24. Cary Castle, 32 Cary Castle Drive, Torquay (P/2016/1304/LB)

The Committee considered an application for the restoration of Cary Castle, alterations and improvements to associated flats, including reduction in number of flats from 14 to 9, removal of partitions from Cary Castle and replacement of windows and doors.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available to view on the Council's website.

Resolved:

Granted, subject to the final drafting of conditions including those set out in the submitted report being delegated to the Executive Head for Business Services.

Chairman

Application Number

P/2017/0445

Site Address

17 Cleveland Road
Paignton
TQ4 6EL

Case Officer

Carly Perkins

Ward

Roundham With Hyde

Description

Demolition & redevelopment to form 22 retirement apartments for the elderly, including communal facilities, access, car parking, and landscaping.

Executive Summary

The proposal is for the demolition of the existing building and the erection of 22 residential supported living apartments and associated communal living facilities within a 5 storey building (including a basement level parking area). Of the 22 apartments, 13 are two bedroom apartments and 9 are one bedroom apartments. The associated living facilities include a guest room, communal lounge, office and store room on the ground floor. A new vehicular access to the site is proposed in a central location off Cleveland Road, this will involve a breach in the existing boundary wall. The existing vehicular accesses to the site to the north east and north west corners of the site are to be reduced to pedestrian accesses and the wall rebuilt. An additional breach in the wall is also proposed to serve as a pedestrian access. 27 parking spaces are proposed to serve the development, which will be accommodated at lower ground floor level. Cycle, mobility scooter and bin storage is provided within the site.

The proposed building is positioned approximately 6.5-8.5m from Cleveland Road in contrast to the existing building which is located approximately 19.3-29.3m from Cleveland Road. The existing garage to the western side of the site is located approximately 5.5m from Cleveland Road and the proposed bin storage area is located in a similar position.

The proposed building is of a contemporary design and detailing. The building is five storeys in total, which includes a basement which due to the topography of the site is only partially visible towards the north western part of the site. The fifth storey (third floor) of the building is set back and is clad in aluminium cladding to achieve a more recessive appearance. The central element of the building is also clad with aluminium cladding and set back at first, second and third floor level to achieve a more recessive appearance and to break up the mass of the overall building which expands much of the width of the plot.

The existing stone boundary wall is to be retained with amendments to allow for visibility and amendments to vehicular and pedestrian access.

The application site is approximately 0.24ha in size and is located to the south of Cleveland Road. It is currently occupied by a two storey building with basement accommodation and rooms within the roof. The building has been subdivided into two units of accommodation. The site is located within the Roundham and Paignton Conservation Area and to the south of the seafront, harbourside and Green Coastal Park, and outside the Paignton Core Tourism Investment Area. A stone boundary wall defines the northern boundary of the site and this is noted as a prominent wall within the Conservation Character Area Appraisal. The site is located within Flood Zone 1, Critical Drainage Area and Policy ER1 flood risk area designation covers the north west front corner of the site. The site is identified within the Torbay Local Plan as a potential development site for consideration in the Neighbourhood Development Plan, primarily for housing.

The site is identified within the Torbay Local Plan as a potential development site for consideration in the Neighbourhood Development Plan, primarily for housing. Policies SS12, SDP1, H1 and H6 of the Torbay Local Plan would support the principle of redeveloping this site for sheltered housing. However the site is within the Roundham and Paignton Conservation Area, and the design and scale of the scheme is not considered to maintain or enhance the character of the Conservation Area which is characterised by generous landscaped plots. Revised plans are required which illustrate a development which can achieve a good quality landscape setting to the proposals and a reduced scale of development together with an adequate level of visibility at the access.

A number of outstanding matters remain, including those in relation to viability, affordable housing provision, CIL and Section 106 contributions. Additional information has also been requested by way of a sunlight and daylight assessment, privacy screening of balconies and a health impact screening. Subject to the successful resolution of these matters and revisions to the design as noted above, it is considered that an acceptable scheme can be achieved.

The recommendation is that these outstanding matters be delegated to officers to resolve. Subject to the successful resolution of these matters, the proposal is recommended for conditional approval.

The proposals have been considered in relation to Policies SDP1, SS7, SS8, SS10, SS11, SS12, DE1, DE3, C4, NC1, ER1, ER2, H1, H2, H6, SC1, TA1, TA2, TA3 and associated Appendix F of the Torbay Local Plan 2012-2030.

Recommendation

Determination to be delegated to Executive Head of Business Services. Conditional approval, subject to the submission of revised plans to demonstrate an acceptable scheme in terms of design, heritage, landscaping and access, additional information in relation to sun light and daylight, health impact and the resolution of matters relating to affordable housing, CIL and Section 106 obligations. Final drafting of conditions to be delegated to the Executive Head of

Business Services.

Suggested conditions:

1. Occupancy restriction
2. Landscaping
3. Parking provision
4. Cycle storage provision
5. Electrical charging
6. Waste storage provision and waste management plan
7. Materials
8. Large scale details
9. Travel plan
10. Lighting
11. Drainage
12. Construction method statement
13. Nest Boxes
14. No vegetation clearance in bird nesting season
15. Rubble clearance during reptile activity season
16. Hard landscaping and boundary treatments

Reason for Referral to Development Management Committee

The application is a major application and is therefore required by the constitution to be determined by DM committee.

Statutory Determination Period

13 weeks, the decision date was the 25th August 2017, this has however been extended to the 22nd September in agreement with the applicant.

Site Details

The application site is approximately 0.24ha in size and is located to the south of Cleveland Road. The existing application site is occupied by a two storey building with basement accommodation and rooms within the roof. The building has been subdivided into two units of accommodation. The site is located within the Roundham and Paignton Conservation Area and to the south of the Seafront, harbourside and Green Coastal Park, outside of the Paignton Core Tourism Investment Area. To the south east of the application site are two key buildings, numbers 15a, b and c Cleveland Road. These buildings are identified as buildings of architectural importance or which make a significant contribution to the townscape. To the north is a terrace of buildings, two of which are also noted as key buildings, numbers 34 and 36 Sands Road. To the west of the site is a four storey apartment block, Homebourne House. Due to the topography of the site which slopes up from Cleveland Road towards the south, properties to the south west and south east are located at a higher level than the application site. A stone boundary wall defines the northern boundary of the site and this is noted as a prominent wall within the Conservation Character Area Appraisal. This wall continues to the eastern and western boundaries of the site. Access to the site is

positioned in the north east corner of the site.

The site is located within Flood Zone 1, Critical Drainage Area and Policy ER1 flood risk area designation covers the north west front corner of the site. The site is identified within the Torbay Local Plan as a potential development site for consideration in the Neighbourhood Development Plan, primarily for housing.

The site is covered by two tree preservation orders, 1974.14.A2 and A1. Under applications reference AT/2002/0490, 13 Monterey Cypress trees were felled and required replacement with 13 Pinus nigra, similarly under application reference AT/2011/0032 1 Magnolia grandiflora and 1 Quercus ilex were felled and required replacement with 1 Magnolia grandiflora and 1 Pinus sylvestris. The replacement trees have not been planted on site. 20 trees currently exist on the site.

Detailed Proposals

The proposal is for the demolition of the existing building and the erection of 22 residential supported living apartments and associated communal living facilities within a 5 storey building (including a basement level parking area). Of the 22 apartments, 13 are two bedroom apartments and 9 are one bedroom apartments. The associated living facilities include a guest room, communal lounge, office and store room on the ground floor. Vehicular access to the site is positioned fairly centrally and is from Cleveland Road. The existing vehicular access is proposed to be used for pedestrian accesses only. 27 parking spaces are proposed to serve the development, which would be accommodated at lower ground floor in the building. Cycle, mobility scooter and bin storage is provided within the site.

The materials for the proposed building are render painted white, tile cladding, aluminium frames, fascias and cladding and timber louvres. The tree report submitted in support of the application indicates that the proposals will result in the loss of 20 of trees. Additional trees are proposed as part on an on-site landscaping scheme.

No affordable housing provision is included within the proposal. A viability assessment has been submitted with the application.

Summary Of Consultation Responses

Historic England: Whilst not against the principle of development within this plot, it is considered that the proposal is at odds with the constraints of the site and insufficient to mitigate the harm identified. As the application affects the conservation area, the statutory requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by the LPA when making its decision. It is recommended that the LPA seeks to improve these proposals so that they avoid or minimise harm to the significance and character of the conservation area (NPPF, para 9). Historic England has concerns about the proposals on heritage grounds due to the scale of the replacement building in

relation to the constraints of the plot available.

Senior Historic Environment Officer: The plans show the relationship of the current building on site and the footprint of the proposal. It is clear that in relationship to plot size Homebourne House adjacent provides a model. Little informal green space remains, in contrast to Homebourne House adjacent, despite its meritless architecture, it preserves much informal greenspace. The building is a tight fit, no amount of planting will be able to mitigate the loss of the informal greenspace especially given the bulk of the buildings. The submitted sections indicate that the east and west sides of the building are in proportion with the height of its neighbours. The principal elevation, however reveals the sheer bulk of the building and its unrelieved horizontality with no concession for the topography as the ground falls from west to east. The recession of the balconies across the central core help to relieve the horizontality. It is suggested that this could be resolved by reworking the blocks. The building remains too wide for the plot. The views of Historic England are agreed. The plans demonstrate an overdevelopment of the plot.

Urban Design Consultant: The project is generally supported in design terms but full support is withheld until more objective evidence is submitted in terms of impacts upon the property to the [west] can be provided.

Arboricultural Officer: The scheme is unsuitable for approval on both arboricultural and landscape merit (tree planting). Given the prominence of the site within the conservation area, the proposed massing of the building as heightened by the topography, it is essential that landscape matters are wholly addressed prior to any consent.

Senior Strategy and Project Officer: The visibility splays indicated are not acceptable. A minimum of 25m and 33m from an 'x' distance of 2.4m should be provided. A solution would be to build out the pavement kerb line. This may be accompanied by some Road Traffic Orders along the frontage. The proposal provides 27 parking spaces, 5 cycle spaces which exceeds the standards of Appendix F of the Local Plan. 10 mobility scooter spaces have been provided but no space for a mini bus appears to be provided in line with the details within the submitted application form. Disabled spaces would be required and electrical charging points.

Waste Client Manager: Space is provided for 8 x 1100 litre bins at the development which is considered adequate. Some additional space should be provide for food waste containers. It has not been possible to ascertain whether the walkway between the bin store and the collection point meet the standards specified and whether the distance that the bins would need to be moved was 25m or less.

Drainage Engineer: It is agreed that due to ground conditions and the gradient of the site that the use of infiltration drainage at this development is not feasible and

therefore the drainage strategy has been based on a controlled discharge rate to the combined sewer system. It must be demonstrated that the surface water drainage design is designed so that there is no risk of flooding to the property or any surrounding land or properties. Therefore the applicant must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 30% for climate change. This information is required prior to determination.

Affordable Housing Delivery Officer: Affordable housing policy requires 20% affordable housing to be provided on brownfield sites which should be proportionate to the mix of the development as a whole. On a scheme of 22 units, 4 affordable units would be required.

A number of issues were raised as to why affordable housing could not be provided all of which could be overcome and there are a number of examples whereby affordable housing has been provided on retirement schemes. Any affordable housing would be restricted to the wider offer and the concern with an age restriction and this alone would not be sufficient to remove the need of on-site provision. If justification can be provided for an off-site contribution a figure which would allow for the provision of affordable housing off-site would be required. Due to the above, Housing Services are unable to support this scheme.

Environmental Health: No comments to make on the application.

Police Designing Out Crime Officer: Advice relating to access and movement, structure, surveillance, ownership, physical protection, activity and management and maintenance is provided. Should planning permission be granted, conditions relating to the submission of a security plan and the construction to achieve full secured by design compliance.

Independent Viability Assessor: Comments awaited.

Ecological Consultants: Comments awaited.

Public Health Officer: Comments awaited.

Summary Of Representations

15 representations have been received (14 objections, 1 support). Issues raised:

- o Impact on light
- o Impact on privacy
- o Impact of construction
- o Impact on character and appearance of the area
- o Impact on trees
- o Impact on conservation area
- o Impact on house values
- o Concerns regarding overdevelopment

- o Impact on view
- o Impact on biodiversity
- o Setting of precedent
- o Impact on light pollution
- o Concerns the proposal is too large
- o Impact on drainage and sewerage
- o Impact of construction and potential for subsidence
- o Impact on traffic as a result of construction and operation
- o Impact on parking as a result of the access and use of on street parking by construction workers
- o Lack of proposed on-site landscape to mitigate loss of trees
- o Impact on revenue for existing hotels as a result of construction
- o Not in keeping with area
- o Development will not meet affordable housing need
- o Impact on tourism
- o Support for the application from the Torbay Civic Society

Relevant Planning History

P/2015/0283 Formation of extension APPROVED 29.05.2015

P/2005/2020 White upvc windows and doors APPROVED 09.01.2006

P/2002/0710 Alterations and erection of new sun deck area and installation of dormer roof extension APPROVED 02.07.2002

P/1989/0740 New windows APPROVED 16.06.1989

P/1988/0055 Construction of new pitched roof APPROVED 30.03.1988

P/1986/1567 Demolition of existing building REFUSED 08.08.1986

P/1986/1546 Erection of home for the elderly REFUSED 08.08.1986

P/1985/2924 Extension use as elderly persons home REFUSED 05.12.1985

P/1983/3034 Garage and extension to dwelling APPROVED 15.02.1984

Key Issues/Material Considerations

The key issues to consider are the principle of the proposed development, the impact on the character and appearance of the area, the impact on neighbouring amenity, access and parking, trees and landscaping, biodiversity and drainage.

Principle of the Proposed Development:

The site is identified within the Torbay Local Plan as a potential development site for consideration in the Neighbourhood Development Plan, primarily for housing. Policy SS12 of the Torbay Local Plan states that housing provision will focus upon

a sustainable pattern of distribution throughout the Bay with an emphasis upon the regeneration of brownfield sites and town centre sites, and development of urban sites. Similarly Policy H1 states that proposals for new homes within Strategic Delivery Areas and elsewhere within the built-up area will be supported subject to consistency with other policies in the plan. One of the specific criteria of this policy notes the objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas. Policy SDP1 states that Paignton will provide around 4,290 new homes over the plan period.

Policy H6 of the Torbay Local Plan 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 Local Plan. This will be achieved through a number of criteria, one of which being that new sheltered accommodation will be supported where it is in easy reach of community facilities, shops and public transport. The site is located approximately 450m from Paignton Town Centre and 300m from Paignton Harbour which include a range of community facilities and shops. There is an existing bus stop on Sands Road, approximately 200m from the site which provides services towards Paignton Zoo and St Marychurch, Torquay, via Paignton Bus and Train Station offering services towards Exeter, Newton Abbot and further afield via train and bus and Torquay Harbour. The location is considered to be sustainable and within easy reach of community facilities, shops and public transport in accordance with Policy H6 of Torbay Local Plan 2012-2030.

The application site is occupied by existing buildings but includes garden space which would be considered greenfield. Irrespective of this, the site is an urban site within the established built up area of Paignton and is in fairly close proximity to Paignton Town Centre and public transport opportunities such that the principle of sheltered residential development in this location is supported by Policies SS12, H1, H6 and SDP1 of the Torbay Local Plan 2012-2030.

Character and Appearance of the Proposed Development and Impact on the Paignton Harbour and Roundham Conservation Area:

Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high quality built and natural environment where people want to live and work. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

In relation to the impact on heritage assets specifically, Paragraph 131 of the National Planning Policy Framework states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness. Policy SS10 of the Torbay Local Plan states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make an important contribution to Torbay's built and natural setting and heritage. Proposals that affect heritage assets will be assessed on a number of criteria. These include the need to encourage appropriate adaptations and new uses, the need to conserve and enhance the distinctive character and appearance of conservation areas while allowing sympathetic development, the impact on vistas and views of historic features, whether the development is necessary in order to delivery demonstrable public benefits taking into account the significance of the heritage asset and whether new development contributes to the local character and distinctiveness of the area through high quality design, use of appropriate materials or removal of deleterious features.

Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the LPA when making a decision on the application to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The site is within the Paignton Harbour and Roundham Conservation Area and is located adjacent and opposite to a number of key buildings of architectural importance or which make a significant contribution to the townscape with the Paignton Harbour and Roundham Conservation Area Appraisal. This site is within the Victorian suburb of the Conservation Area which is defined by its Victorian layout with plots of increasing size for terraces, semi-detached and detached villas. This particular site within the 'Belle Vue, Cleveland and Keysfield Road triangle', and in this area the appraisal notes that very few houses here have remained unaltered, as the original larger plots have allowed large extensions, infill buildings or in some cases complete demolition and redevelopment. It also states that the area as a whole is enhanced by the mature trees and hedges present in streets and gardens which conceal some of the less successful replacement buildings. This part of the Conservation Area, the island block, though degraded to a degree is still characterised by large plots, with garden space dominant, mature tree cover and fine boundary walls, even with the additional building of the last 30 years, the green space remains an ameliorating characteristic.

The proposed building is of a contemporary design and detailing and positioned 6.5-8.5m from Cleveland Road (at its closest point this is 12.8m closer to Cleveland Road than the existing building on site). The building is five storeys in total, which includes a basement which, due to the topography of the site, is only partially visible towards the north western part of the site. The fifth storey (third floor) of the

building is set back and is clad in aluminium cladding to achieve a more recessive appearance. The central element of the building is also clad with aluminium cladding and set back at first, second and third floor level to achieve a more recessive appearance and to break up the mass of the overall building which expands much of the width of the plot. The proposal is relatively simple in design and materials include white painted render, tile cladding, aluminium cladding and timber louvres. Within the Conservation Area, render is predominantly adopted to the exterior walls of buildings with some examples of brick, exposed stone, painted stone and brick. Roof materials are a mixture of natural and artificial slate, plain tiles and pantiles. The proposal includes predominantly painted render walls, tile cladding and aluminium cladding. Render is clearly predominant within the Conservation Area and subject to the submission of full specification details and large scale details, the material choices are considered to represent an acceptable design response. The existing stone boundary wall is to be retained with amendments to allow for visibility and amendments to vehicular and pedestrian accesses.

The gradient of Cleveland Road and the topography of the site, together with the height and position of neighbouring plots suggest that a larger and taller building can be accommodated on this site than currently exists. The proposed building is located forward of the existing building and those adjacent, presumably to enable a building of this scale to fit within the wedge shaped plot. The shape of the plot is not evident in views from Cleveland Road, but in plan form, the solid to void ratio is much more obvious with the built form taking precedence over the garden areas. The proposal is set down within the site, with an element of basement accommodation to serve as a parking area. This is a positive element of the scheme preventing the need for large areas of hardstanding to the front of the building and allowing a green frontage to Cleveland Road. The proposal is of a lesser height than the neighbouring Homebourne House and due to the change in topography across the site, sits at a lower floor level and ridge height than 15, 15a, b and c Cleveland Road. In order to lessen the impact of the additional height on the area, the height of the building reduces from 5 storeys to 4 storeys and is well articulated diminishing its presence and impact on the street scene and breaking up the mass of the building. The subdivision of the main building through the recessive design of the central element and the recessive top floor help to reduce the overall mass and bulk of the proposal. Whilst this design approach is welcomed and there is agreement that a larger building can be accommodated on this site, the overall width and mass of the building is not considered sympathetic to the street scene or character of the Conservation Area (this is discussed further below).

The existing two storey dwelling to be demolished, occupies a generous triangular shaped plot with a curved boundary onto Cleveland Road. Whilst not specifically mentioned in the Roundham and Paignton Harbour Conservation Area Appraisal and not of any particular architectural merit, it occupies a subservient position towards the back of the plot away from the road frontage and is of a scale which

has preserved the generous grounds around it. For these reasons, the existing building does not detract from the character of the Conservation Area. In contrast the proposals are considered to be of scale that is out of proportion with the plot size itself and its immediate largest neighbour, Homebourne House. The proposals will remove the dominant garden space which contributes to the character of this part of the Conservation Area. This is evident more so where the building appears too close to the side boundaries of the plot. The scale of the green areas are limited to narrow side corridors alongside the building which would not be commensurate with the character of the Conservation Area. It is noted that Historic England has raised concerns regarding the height of the building, which exceeds the height of the trees and if reduced in height, trees would provide cover to lessen the impact on the neighbouring buildings. The retention of the curved stone wall is noted as a benefit to the scheme. In line with the above, the proposal is considered too large for the plot and amendments are required in order to ensure its acceptability.

Since the submission of these plans, a meeting has been held with the applicant and consultees to discuss potential revisions to overcome these concerns. Revisions have been suggested to the applicants and these include a stepped approach across the width of the proposal, reflecting the topography of Cleveland Road and a reduction to the width of the building to achieve well landscaped green corridors to either side of the building to reflect the character of the Conservation Area. Currently the scheme is considered too large and revised plans are expected and Members will be updated at the Committee meeting.

The setting of precedent has been raised as a concern within the submitted public representations. Whilst a planning consideration, each application is considered on its own merits and the acceptability of one proposal does not automatically effect another. Whilst the concern is noted this would not represent a reason to refuse the application.

Landscape Impact, Trees and Biodiversity:

Policy C4 states that development will not be permitted when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows or other natural features of significant landscape, historic or nature conservation. In addition this Policy states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible. Policy DE1 states that development proposals will be assessed against their ability to meet certain design considerations including the incorporation of existing trees and native species and the provision of high quality hard and soft landscaping.

The site is covered by two tree preservation orders, 1974.14.A2 and A1. 20 trees currently exist on the site and the tree report submitted in support of the application indicates that the proposals will result in the loss of all 20 trees. In terms of on-site landscaping there are 6 trees proposed within the proposed layout along with

shrub and hedge planting to the front, side and rear of the proposal building.

In line with comments from the Arboricultural Officer, the submitted landscape details, principally trees do not address the prominence of the site within the Conservation Area and the trees selected are not positioned such that the street scene will be enhanced. In addition the trees selected are unlikely to be welcomed by occupiers due to the density of the crown (even in winter) and planting pit details are not site specific or pertinent to the terraced style liner planting bed. In line with the above, the current proposal is considered unacceptable on both arboricultural and landscape merit. In light of the prominence of the site within the Conservation Area and the scale and massing of the proposed building, it is essential that the landscaping scheme is revised to ensure the acceptability of the overall proposal.

Since the submission of these plans, a meeting has been held with the applicant and consultees to discuss potential revisions to overcome these concerns. Revised plans are expected and Members will be updated at the Committee meeting.

Policy NC1 of the Torbay Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. The policy continues to state that development should not result in the loss or deterioration of irreplaceable habitats or wildlife corridors. Where development in sensitive locations cannot be located elsewhere, the biodiversity and geodiversity of areas will be conserved and enhanced through planning conditions or obligations. It also notes that all developments should positively incorporate and promote biodiversity features.

The ecological survey submitted states that the site did not have suitable habitat for bats or any other protected species with the possible exception of slow worms, nesting bird and reptiles. The survey recommended that no further survey work is required prior to the development taking place and suggested precautions that should be taken to ensure wild birds and other animals are not harmed during nesting/activity seasons

A consultation response is awaited from the Council's Ecological Consultants, the Members will be updated on this point at the Committee meeting.

Access and Parking Provision:

Policy TA2 states that schemes which require a new access to/from the highway network will be supported where they provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility.

The visibility splays to serve the new vehicular access indicated are not acceptable. A minimum of 25m and 33m from an 'x' distance of 2.4m should be provided. A solution would be to build out the pavement kerb line. Revisions to

the access are required in order to achieve the minimum visibility splay on the access and Members will be updated at the Committee meeting.

If the pavement kerb line is built out, it is likely that a Traffic Regulation Order (TRO) will be required along the frontage of the site. In this event, the applicant will be required to fund the costs of making the TRO and associated works to the highway.

If the application is approved a travel plan setting out how at least 30% of the potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review will be imposed by condition in order to secure compliance with Policy TA2.

Policy TA3 indicates minimum thresholds for car parking for development proposals. The proposal provides 27 parking spaces, 5 cycle spaces. This exceeds the standards of the Local Plan. Whilst an overprovision of parking space is not unacceptable, given the concerns regarding the size of the building a lesser provision would be appropriate.

Public representations regarding the impact on the availability of on street parking are noted but the proposals currently far exceed the standards set out within the Local Plan and therefore the impact on on-street parking is not considered to warrant the refusal of the application.

10 mobility scooter spaces have been provided but no space for a mini bus appears to be provided in line with the details within the submitted application form. Should the proposal be approved, the provision of electrical charging spaces, cycle and scooter storage will be secured by condition.

Quality of the Residential Environment for Future Occupants:

There are 22 new residential units being provided as part of the proposed scheme, these comprise of 13 are two bedroom apartments and 9 are one bedroom apartments.

Policy SS11 of the Torbay Local Plan outlines the criteria which the LPA uses to assess whether development proposals contribute towards sustainable communities. It continues by stating that sustainable communities are those that meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to a high quality of life, they are safe and well planned, built and run.

Policy DE3 states that all development should be designed to provide a good level of amenity for future residents. Each of the proposed units far exceeds the size standards set out within the government document Technical Housing Standards-National Described Space Standard (March 2015), in one instance a unit is double the size that recommended by the minimum space standards. Whilst a scheme

which provides more floorspace per unit than indicated by the minimum floor space standards would not represent a reason to refuse the application, given the concerns regarding the size of the building, smaller units would be acceptable in this development.

In terms of outdoor amenity space, each of the proposed apartments benefits from either a terraced area or balcony. There is also a communal garden area to the rear of the building. The proposals far exceed the guideline of a minimum space of 10 square metres for apartments. Given the concerns regarding the size of the building smaller balconies/terraces would be appropriate.

In terms of the quality of internal spaces, the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution are considerations in line with Policy DE3. The proposed units are largely double aspect with the exception of 6 units which benefit from views to the north east only. Due to the position of windows and balcony areas within the proposal, the occupiers of the proposed units are unlikely to be detrimentally affected by the existing buildings in terms of overshadowing.

Communal bin storage areas have been provided within the development along with a bin collection area. The Council's Waste Client Manager has confirmed that the proposals provide sufficient space for the storage of waste. The proposed bin storage facilities are considered acceptable and compliant with Policies DE3 and W1.

Neighbouring Amenity:

Policy DE3 also states that development should not impact upon the amenity of neighbouring and surrounding uses. A number of concerns have been raised from nearby residents in relation to the loss of privacy, light and the dominance of the development proposals. With regard to the impact on privacy, the side elevations include high-level windows which would prevent views into adjacent plots. The proposed balconies, however return around the side of the building, which has the potential to provide elevated views into the neighbouring site. At a meeting with the applicant, the inclusion of screens to prevent access around to the side of the building was discussed. Revised plans are expected from the applicant, the Members will be updated at the Committee meeting.

With regard to the impact of the proposals to the properties to the south, the distances involved and the change in topography is such that the proposals are not considered to result in significant detriment to residential amenity by reason of loss of privacy. Whilst the occupiers of these units to the south are likely to be able to see the development more so than is currently the case, the distances involved are such that any significant impact on privacy is unlikely. With regard to the properties north of the development, these are separated by Cleveland Road and due to the distances involved, it is not considered that a detrimental impact on privacy will occur.

In terms of loss of light, dominance and outlook, due to the orientation of the site and distances between buildings any impact is likely to be to those sites to the west. A sunlight and daylight analysis and details of what type of rooms in the adjacent building will have their outlook impaired, and a cross section to show the relationship between the property to the west and the proposal has been requested to allow further consideration of this relationship and any impact on neighbouring residential amenity. The Members will be updated on this point at the Committee meeting.

Due to the separation distances involved between the properties to the south east (15, 15a, b and c), the difference in topography and the orientation of the application site in relation to those surrounding, the proposals are not considered to result in serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing. Whilst the site sits at a higher level, having considered the principal outlook of properties on Sands Road northwards towards the sea and the separation distances involved, the proposals are not considered to result in a serious detriment to residential amenity by reason of loss of light, outlook or by reason of being unduly dominant or overbearing.

It is noted that due to the height of the development there will be an impact on the outlook of properties to the south of the site which currently enjoy a view towards the sea. Whilst this is not ideal for the occupants of these properties, loss of view is not a planning consideration and would not represent a reason to refuse the proposal.

The impact on tourism has been raised as a concern within the submitted public representations. The site is outside of the Core Tourism Investment Area but would be positioned adjacent to it. The use of this site for sheltered accommodation is not considered to conflict with neighbouring tourism uses. Whilst the proposal will alter the appearance of the site, providing the design is appropriate bearing in mind the location within the Conservation Area, the proposals are considered to integrate well with other residential and tourism uses nearby. The proposed use of the site is not considered to conflict with other neighbouring uses nor with Policy TO1 of the Torbay Local Plan 2012-2030.

Concerns have been raised within public representations regarding noise and disturbance during the construction processes. Whilst concerns are noted, the construction process will be short lived and a condition can be imposed to secure a construction process which minimises disturbance for local residents. Were the proposals to be considered acceptable a condition requiring the submission of a construction method statement would be imposed.

Concerns have also been raised regarding house values, these would not constitute planning considerations and would not warrant the refusal of the application.

Drainage:

The application site is within the Critical Drainage Area as designated by the Environment Agency. Policy ER2 requires all development to seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will firstly discharge to an adequate infiltration system, a main river or watercourse, a surface water sewer or highway drain or as a last resort a combined foul sewer where discharge is controlled to be at a greenfield discharge rate. The Council's Drainage Engineer has agreed that due to ground conditions and the gradient of the site that the use of infiltration drainage at this development is not feasible and therefore the drainage strategy has been based on a controlled discharge rate to the combined sewer system. The controlled discharge rate has not been identified for the site as 1.5l/sec as required within a Critical Drainage Area. Further information has been requested by the Drainage Engineer, this is currently with the applicant to action. The Members will be updated on the drainage matters at the Committee meeting.

Other Issues:

Policy SC1 of the Torbay Local Plan states that all developments creating over 1,000sqm of floorspace will be required to undertake a screening for a Health Impact Assessment and a full Health Impact Assessment if necessary, proportionate to the development proposed and to demonstrate how they maximise positive impacts on health and healthy living within the development and adjoining areas. A screening has been requested from the applicant.

Human Rights and Equalities Issues:

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations:

The proposal would result in the provision of 22 additional residential units which would attract new homes bonus. There would also be a benefit to the local economy as a result of the construction of the proposed development. The

provision of sheltered apartments would also have the potential to 'free up' family housing as it offers the opportunity to downsize in the housing market.

S106/CIL:

Affordable Housing:

The site is partially brownfield and partially greenfield. The existing units on site have been taken into account and the policy compliant levels of affordable housing indicate that 5 affordable housing units should be provided on site. The applicant has however argued that the site is not suitable for on-site provision of affordable housing. The Affordable Housing Delivery Officer has not yet agreed that such an approach would be acceptable.

S106:

S106 contributions are required from this development in accordance with Policy H6 and the Planning Contribution and Affordable Housing SPD. Policy H6 states that the Council will seek financial contributions via s106 Planning Obligations to meet likely local healthcare and social service costs arising from care facilities and sheltered accommodation, unless applicants are able to show that this contribution would not be appropriate. For example where on-site care and facilities are provided as part of an overall development package, or where occupancy is restricted to persons already living in Torbay. A baseline contribution of £1,300 per unit of sheltered accommodation is sought. On developments which are liable to provide affordable housing where viability is an issue, the provision of affordable housing will usually be prioritised over social care contributions. When considering viability, the liability to pay CIL is also taken into account. The liability to pay CIL is reduced or removed only in exceptional circumstances.

A viability assessment has been submitted with the application and is currently being independently assessed by the Torbay Development Agency. The healthcare contribution would be £28,600 for 22 market units or £22,100 for 17 market units and 5 affordable units. The Members will be updated on the outcome of the independent viability assessment at the Committee meeting.

CIL:

The application is for residential development in zone 2 where the Community Infrastructure Levy (CIL) is £70 per square metre of additional gross internal floor area created. The existing gross internal area in lawful use for a continuous period of at least six months within the three years immediately preceding this grant of planning permission is 412.5m². The CIL liability for this development is £154,875. In line with the submitted CIL form, this is based on 2,212.5net m² at £70 per m². This amount does not take into account any CIL exemption or relief that may be eligible. The applicant has included CIL costs within the viability assessment, suggesting that they do not intend to apply for exceptional circumstances.

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

Date: 29.08.2017

Proactive Working:

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant. Subject to a number of revisions to the scheme and the receipt of additional information, the Council has concluded that this application is acceptable for planning approval.

Conclusions:

The site is identified within the Torbay Local Plan as a potential development site for consideration in the Neighbourhood Development Plan, primarily for housing. Policy SS12, SDP1, H1 and H6 of the Torbay Local Plan would support the principle of redeveloping this site for sheltered housing. However the site is within the Roundham and Paignton Conservation Area, and the design and scale of the scheme is not considered to maintain or enhance the character of the Conservation Area which is characterised by generous landscaped plots. Subject to the submission of revised plans which illustrate a development which can achieve a good quality landscape setting to the proposals and a reduced scale of development together with an adequate level of visibility at the access, the proposal is likely to be considered acceptable.

A number of outstanding matters remain, including those in relation to viability, affordable housing provision and Section 106 contributions. Additional information has also been requested by way of a sunlight and daylight assessment, privacy screening of balconies and a health impact screening. Subject to the successful resolution of these matters and revisions to the design as noted elsewhere in this report, it is considered that an acceptable scheme can be achieved.

The recommendation is that these outstanding matters be delegated to officers to resolve. Subject to the successful resolution of these matters, the proposal is recommended for conditional approval.

The proposals have been considered in relation to Policies SDP1, SS7, SS8, SS10, SS11, SS12, DE1, DE3, C4, NC1, ER1, ER2, H1, H2, H6, SC1, TA1, TA2, TA3 and associated Appendix F of the Torbay Local Plan 2012-2030.

Relevant Policies

SDP1 - Paignton

SS7 - Infrastructure, phasing and employment

SS8 - Natural Environment

SS10 - Conservation and Historic Environment

SS11 - Sustainable Communities Strategy
SS12 - Housing
DE1 - Design
DE3 - Development Amenity
C4 - Trees, hedgerows and natural landscape
NC1LFS - Biodiversity and Geodiversity
ER1 - Flood Risk
ER2 - Water Management
H1LFS - Applications for new homes
H2LFS - Affordable Housing
H6LFS - Housing for people in need of care
SC1 - Healthy Bay
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements

Application Number

P/2017/0549

Site Address

Premier Inn
Inn On The Quay
Tanners Road
Paignton
TQ4 6LP

Case Officer

Mr Alexis Moran

Ward

Goodrington With Roselands

Description

Demolition Of The Single Storey Public Conveniences. Erection Of A Three Storey Stilted Annex To The West Of The Existing Hotel (Use Class C1) Within The Car Park. Reconfiguration And Extension Of The Car Park. Installation Of A Plant Enclosure Containing 2no. Ac Units.

Executive summary

The overall site area is 0.69 hectares and is located on Goodrington Sands, approximately 1.4km south of Paignton Town Centre. It is located within a Core Tourism Investment area as allocated by the Local Plan. There is currently a two-storey hotel building which provides 33 guest bedrooms with an adjoining pub/restaurant known as the Inn on the Quay. There are 62 car parking bays which serve both uses.

The site is accessed via Tanners Road the surrounding area comprises a number of tourism related used, including Splashdown Waterpark, Grand Prix Go Carts and the Octopus Café. A block of public toilets is located within the site and a tourist information office, The Seashore Centre, is located on the outer fringe of the site boundary, fronting Tanners Road.

The proposal seeks permission for a three storey annexe building to the west of the site. The annexe is part stilted and accommodates parking spaces at ground floor. Through reconfiguration and extension of the car park an additional 17 parking spaces are proposed. The annexe employs contemporary architecture with a mix of materials providing texture to the elevations and visual interest. The plant will be contained within a plant room on the ground floor thereby limiting the building height.

In order to provide additional parking spaces the proposal requires the demolition of the public toilets at the south of the site. The Council intends to replace these facilities with an alternative in the wider area. Temporary toilets are proposed to be provided in the meantime.

The existing hotel is in a prime location within a Core Tourism Investment Area and is therefore a popular destination. As a result of this the applicant has advised

that there is a clear requirement to expand on the existing number of rooms on the site.

Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to increase overall spend. The Policy states that Core Tourism Investment Areas are the main focus for investment in tourism which includes Goodrington Sands.

The annexe provides an improved tourist facility within an area allocated for such developments within the Local Plan. Therefore the principle of the annexe is deemed to be acceptable.

The location of the annexe provides a significant separation between it and the existing hotel thereby allowing for a distinctively different design rationale. The annexe is of a contemporary design, and amalgamates some of the existing features on the site such as the existing red sandstone walls in the car park area which once made up part of a walled garden. The design of the proposal is deemed to be acceptable, further information regarding the materials and architectural details is required.

With regards to accessibility, the level of parking is considered to be acceptable however further features including an increase in cycle parking provision and electronic charging points are considered to be necessary. The car park management plan should be amended to suggest a dedicated area for hotel guests.

The two mature trees to the south of the site play a significant role to the character of the landscape and the visual amenity of the area. The applicant intends to retain the existing trees which are not protected by a tree protection order.

The proposal includes the loss of six individual trees and one tree group. Although the loss of these trees can be mitigated by additional tree planting to comply with Policy C4, the landscaping scheme submitted with the application does not provide suitable mitigation. A revised landscaping scheme is therefore required.

The Environment Agency Flood Map identifies that the eastern part of the site including the current building, beer garden and area between the hotel and beach, is designated as Flood Zone 2, the remainder of the site is in Flood Zone 1. The proposed annex is located in the area of the site designated as Flood Zone 1.

The Council's drainage engineer has advised that the developer must provide further information on trial holes and infiltration tests. The design for the surface water drainage system, soakaways and permeable paving must be submitted showing that they have been designed to cater for the critical 1 in 100 year storm event plus a 30% allowance for climate change. Further information on this is

awaited.

The proposed development provides an improvement to a tourist facility within a Core Tourism Investment Area and therefore complies with Policy TO1 of the Torbay Local Plan 2012-2030. The proposal is deemed to be of an acceptable scale and design and is considered to be appropriate for planning approval subject to the receipt of additional information, having regard to all national and local planning policies and all other relevant material considerations.

Recommendation

Conditional approval subject to the receipt of additional design and drainage information. Final drafting of conditions to be delegated to the Executive Head of Business Services.

Site details

The overall site extends to 0.69 hectares (1.7 acres) and is located on Goodrington Sands, approximately 1.4km south of Paignton Town Centre. It is located within a Core Tourism Investment area as allocated by the Local Plan.

The site comprises a freestanding two-storey building, occupied by Premier Inn which provides 33 guest bedrooms with an adjoining pub/restaurant known as the Inn on the Quay. There are 62 car parking bays which serve both uses including five disabled bays.

The surrounding area comprises a number of commercial uses associated with the coastal location, including Splashdown Waterpark, Grand Prix Go Carts and the Octopus Café. A public convenience block is located within the Site and tourist information office, The Seashore Centre, is located beyond the south boundary, fronting Tanners Road.

The site has a sloping gradient falling west to east towards the seafront. There are also significant level changes within the car park falling south to north.

The site does not fall within a Conservation Area however The Inn on the Quay Public House is a former admiralty hospital dating back some 300 years to before the Napoleonic Wars. The walls surrounding the car park are noted as monuments on the Torbay Historic Environment Record (HER).

The site falls within a Coastal Protection Zone which seeks to protect the natural and historic environment of the area. It is also identified for the improvement of existing tourist facilities.

The Environment Agency Flood Map identifies that the eastern part of the site including the current building, beer garden and area between the hotel and beach, is designated as Flood Zone 2, the remainder of the site is in Flood Zone 1. A very small area to the south east of the beer garden (outside of the location of the

annexe) is located in Flood Zone 3. The proposed annex is located in the area of the site designated as Flood Zone 1.

Detailed Proposals

The proposal seeks permission for a three storey annexe building to the west of the site. The annexe is part stilted and accommodates parking spaces at ground floor; an additional 17 parking spaces are proposed, which can be achieved through reconfiguration and extension of the car park. The annexe employs contemporary architecture with a mix of materials to give texture to the elevations and visual interest. The plant will be contained within a plant room on the ground floor thereby limiting the building height.

In order to provide additional parking spaces the proposal requires the demolition of the public toilets at the south of the site. There is an agreement in place in which the Council intends to replace these facilities with an alternative in the wider area. Temporary toilets are proposed to be provided in the meantime.

The proposed development will involve the loss of five trees within the car park to accommodate the annex and additional parking bays. The trees to be removed are located within the car park and have all been identified as low quality specimens (Category C). All other trees surrounding the proposed annex will be retained including the two mature Poplars around which the turning circle will be located. Measures will be introduced to protect the trees during construction.

The access and egress to the car park is to be modified with the removal of the existing public conveniences and mini-roundabout. A turning area will be introduced to allow coaches and service vehicles to follow a one-way route and depart in forward gear. The entrance to the existing service yard will remain unchanged and no increase in the size or frequency of delivery vehicles would be anticipated. The new turning circle will improve existing servicing arrangements and access for service vehicles.

Summary Of Consultation Responses

Arboricultural Officer - No incursion whatsoever should occur in respect of the low raised bed retaining T16 & T17. Categorisation as A2 class trees is not wholly agreed with given the age class for the species which will be shortened by tree exposure to Easterly storm events, lower structural form to T16 and volumes of accumulating and coalescing deadwood. Consideration should be given by the applicant as to whether the retention of the trees is suitable for the long term benefit of the new facility and the role they play as key feature trees in the local coastal landscape.

Six individuals and 1 tree group are proposed to be removed to facilitate the build for which one small sized species is proposed. This is wholly inadequate mitigation. This if approved would be detrimental to the public visual amenities of the local landscape and internal users of the walled element of the new facility.

The location selected for the single tree presents excellent opportunity for a key feature tree.

Overall the scheme is considered to be suitable for approval on arboricultural merit however revisions as described above are required by way of pre-commencement condition or revised plan prior to any commencement on site.

Drainage - The two plans that have been submitted identify the location of infiltration testing and a change to the surface water drainage strategy, with surface water now being discharged to either a soakaway or permeable paving. The additional information that has been submitted does not include the results of the infiltration testing or the detailed design for the surface water drainage system, soakaway and permeable paving.

The design for the surface water drainage system, soakaways and permeable paving must be submitted showing that they have been designed to cater for the critical 1 in 100 year storm event plus a 30% allowance for climate change.

The applicant must demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to the development.

South West Water - SWW has no objection subject to no surface water being discharged to the public sewer unless it can be demonstrated that soakaways cannot be used.

In the event of soakaway drainage not being possible a discharge to the public sewer will require attenuation the extent of which will need to be agreed.

Senior Historic Environment Officer - no objection to the revised location of the annexe.

Design Consultant - the revised siting and design of the proposal are far better than that originally submitted. No more than three materials should be used in the external finish, brickwork, zinc and render. Some finer design details will be required either upfront or via condition.

Strategic Transport - The Council could accept the reduced parking level but more would be needed to provide alternative solutions. There is an acknowledgment that there are good pedestrian and cycle links in the vicinity and that residents may choose to make use of those facilities. However, very limited cycle parking is then provided. More and perhaps a separate store for residents and staff would be expected.

This is a very difficult car park to assess given the public pay and display nature, alongside the hotel and restaurant. It would be fair to say that it does not fall into

a "standard" bracket. For instance from observation when the car park is full to capacity it is not possible to identify which of those vehicles related to a customer of the hotel/restaurant and which did not. There is considerable alternative pay and display parking in the vicinity which the applicant suggests will be considered within the Car Parking Management Plan. However neither car park is open all day every day and this can limit the potential to be used by customers. The plan will be very important to ensure suitable management of parking takes place.

There is no obvious drop-off facility which would be appropriate where customers are travelling by train (likely onward travel by taxi) or if use of other car parks is considered within the management plan. This is considered to be an important feature especially where there is limited manoeuvring space within the car park layout and where it is possible for vehicles dropping off to block others.

No provision (or justification for the lack of) has been made for electric charging points.

It is noted that references are made within the documents to how it is predicted staff would travel on the walking and cycling routes from nearby residential areas. However, given this is an existing hotel, it would have been appropriate for an assessment of existing staff to have been undertaken.

In conclusion, whilst the level of parking is acceptable, other features should be included and there should be an increase in cycle parking provision. The car park management plan may need to suggest a dedicated area for hotel guests.

Community Safety - No objection.

Summary Of Representations

A total of 15 objections have been received which raise the following points:

- o Loss of public conveniences
- o Too large/overdevelopment
- o Out of keeping with the character of the area
- o Drainage issues
- o Poor design
- o Increase in traffic flow.

During the application stage the plans have been altered. The annexe has been moved away from the main hotel building to provide true separation, the design has been improved and the plant has been moved off of the top of the building thereby reducing its height.

Relevant Planning History

DE/2016/0051 - Demolition of existing public conveniences; Erection of 3-storey annexe to existing Hotel; Reconfiguration of car park; The pre-application enquiry

was taken to the Councils Design Review Panel on 30th March 2016. The conclusions of the panel were that the site is in a prominent location and the accommodation has been carefully extended in the past. However the proposed strategy for increasing the floorspace was not looked upon as successful. The advice given was that the project needs to be a success as a three dimensional composition - working with external spaces and places created between buildings as well as the built-forms themselves. Before these studies are attempted some crucial further survey and analytical work is required and the design team should be allowed flexibility in terms of interpreting the 'corporate model' on this valuable site.

P/2009/0437 - Alterations to form hotel; and 2 storey side extension, single storey rear extension, demolition works; alterations to external areas -approved by DMC 20.07.2009.

Key Issues/Material Considerations

The key issues to consider in relation to this application are;

1. Impact on tourism
2. Loss of public convenience facility
3. Impact on the character of the area and design
4. Impact on transport and car parking
5. Landscaping
6. Drainage

1. Impact on tourism

The existing hotel is extremely popular with holiday makers given its location on the seafront. The high average occupancy levels of the hotel have established a clear requirement to expand. The proposal will provide 20 new bedrooms within the annexe which is the subject of this application.

Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to increase overall spend. Proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark are encouraged by this Policy.

The Policy states that Core Tourism Investment Areas are the main focus for investment in tourism which includes Goodrington Sands. These 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.

The annexe provides an improved tourist facility within an area allocated for such developments within the Local Plan. Therefore the principle of the annexe is deemed to be acceptable, subject to compliance with other relevant Local Plan Policies.

Policy SDP1 states that the role of Goodrington as a leisure and employment hub will be promoted and enhanced, whilst protecting the areas environmental assets. Policy SS1 states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay the Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism, hotel and catering. The addition of the annexe would create 4 new full time employees. During the construction phase there are likely to be additional jobs created.

There are likely to be wider economic benefits through additional visitors being attracted to the area as a result of the proposed facility. Additionally it would add to the existing tourism offer in the seafront area attracting people of all ages, accordingly the proposal complies with Policy TC5 of the Local Plan.

2. Loss of Public Convenience

In order to provide additional parking and improved vehicular manoeuvring the existing Public Convenience is to be demolished. Concerns have been raised with regards to the loss of the public convenience on the site. Torbay Council has an agreement in place to replace the existing public convenience with a new public convenience within the immediate area. During the period between the demolition of the existing public convenience and the building of the temporary facilities will be provided. The replacement toilet facilities will be provided in an alternative location within the wider area of Goodrington Sands.

It will not be possible to condition the provision of the new toilet facilities as they will be delivered by the Council rather than the applicant on land that is not in the applicant's control. As the Council is a responsible organisation that is capable of delivering this form of development it is considered that there is sufficient certainty that these facilities will be provided.

3. Impact on the character of the area and design

Policy DE1 of the Local Plan requires development to positively enhance the built environment, integrate with the existing street scene and features, including trees, protect important local and longer-distance views and impact on the skyline, especially from public vantage points and to evolve high quality architectural detail with a sensitive palette of materials.

The annexe will be sited at the west of the site; it had previously been located on the north elevation. The revised location of the annexe provides a significant separation between it and the existing hotel which allows for a distinctively different

design rationale. The annexe is of a contemporary design, the applicant has worked with the case officer and the Council's design consultant in formulating this design which is now more in line with the suggestions of the Design Review Panel (20.03.2016). Details of the palette of materials are to be submitted prior to the Development Management Committee in order to limit the number or pre-commencement conditions, it has been suggested that three main finish materials should be used, zinc, render and brickwork.

The annexe has been designed to amalgamate the existing red sandstone walls in the car park area which once made up part of a walled garden. The annexe responds to the difference in levels within the car park area.

The area to the west and south-west of the site is screened by large mature trees which would limit the visual prominence of the annexe especially between Spring and Autumn when they are in full leaf. The development would be significantly higher than the boundary wall to the west elevation where there is a public footpath which leads to Goodrington Park and the car park to the north-west. As the development will be prominent from the footpath it is likely that it would be overbearing to a degree. However it will be sited behind the existing high boundary wall and as the area to the west of the footpath is open, this would not significantly increase the feeling of enclosure. Therefore the overall impact on users of the footpath is deemed to be acceptable.

When viewed from the north the annexe would appear to be well separated from the existing hotel building. As it has been moved to the west elevation and turned through 90 degrees. It provides a narrower elevation when viewed from the north and breaks up the built form in this location. The proposal would also be partly obscured by boundary trees. Although the annexe would be slightly higher than the existing buildings on the site, it is not considered that this would be significant when viewed from the wider area or appear as an overdominant addition to the site.

There is an Urban Landscape Protection Areas (ULPA) to the north of the site. The annexe will not undermine the value of the ULPA as an open feature and therefore complies with Policy C5 of the Local Plan.

From the east, seaward side, the annexe would not be highly visible, it would be sited behind the existing built form on the site and although it will be slightly higher the majority will be obscured.

The annexe is considered to be of an appropriate design, scale and height for the location in which it is to be sited, bearing the above points in mind it is considered that the proposal complies with the requirements of Policy DE1.

Policy C2 states that proposals in the developed areas of coast will be permitted where it provides benefit to Torbay's economy and does not unacceptably harm

the landscape character and appearance of natural, historic or geological assets. It is considered that the proposal would provide an economic benefit through jobs and additional spending and would be an acceptable addition to the landscape.

Policy DE4 relates to building heights, this policy states that buildings should be of an appropriate height to the location, historic character and the setting of the development. The three storey nature of the building is considered to be appropriate in this location.

The annexe would be located within close proximity of the Seahorse Centre which provides tourist information and acts as offices for the Coast and Countryside Trust. Although the building would be higher than the Seahorse Centre and has the potential to be somewhat overbearing, it is not a residential property and the proposal would not cause an unacceptable loss of light to functioning office or public areas.

The NPPF is clear that a hotel constitutes a main town centre use and as such, a sequential assessment would normally be required for a new facility. However this application is for an annexe to the existing hotel in this location which is within a Core Tourism Investment Area and is supported in principle by Local Plan Policies TO1, SS1 and SDP1. The applicant has advised that it would not be viable for Premier Inn to operate a standalone 20 bedroom facility in Paignton or the wider area. It is not therefore considered necessary to undertake a sequential assessment in this case given the location and market requirements of Premier Inn to enhance the existing hotel at Goodrington.

4. Impact on transport and car parking

An additional 17 car parking spaces are proposed, although this is 3 spaces less than required by Policy TA3 the reduced parking level is considered to be acceptable given that there are good pedestrian and cycle routes in the area. However further cycle storage should be provided in order to fully appreciate the sustainable nature of the site.

There is considerable alternative pay and display parking in the vicinity which the applicant suggests will be considered within the Car Parking Management Plan. However neither car park is open all day every day and this can therefore limit the potential to be used by customers.

The Car Parking Management Plan is considered to be an important aspect of this application to ensure suitable management of parking takes place. This should be revised to provide a drop off facility which would be appropriate where customers are travelling by train and if nearby car parks are considered to be used within the management plan. This is considered to be important to ensure vehicles dropping off do not block others.

Whilst the level of parking is acceptable, a revised Car Parking Management Plan,

including the provision of a drop off area, an increase in cycle parking provision and electric charging points should be provided. Subject to these revisions and the submission of a travel plan, the proposal is deemed to comply with Policy TA3 of the Torbay Local Plan.

5. Landscaping

The two mature trees to the south of the site play a clear and appreciable role to the character of the landscape and the visual amenity of the area. Although the arboricultural officer advises that these trees could be replaced with trees of a similar size but a more hardy species given the proximity to the coast, the applicant intends to retain the existing trees.

Policy C4 advises that development will not be permitted when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The proposal includes the loss of six individual trees and one tree group.

Although the loss of these trees can be mitigated by additional tree planting to comply with Policy C4, the landscaping scheme submitted with the application does not provide suitable mitigation. A revised landscaping scheme is therefore required.

The proposal does not undermine the value of the ULPA and is deemed to comply with Policy C4.

6. Drainage

The Environment Agency Flood Map identifies that the eastern part of the site including the current building, beer garden and area between the hotel and beach, is designated as Flood Zone 2, the remainder of the site is in Flood Zone 1. The proposed annex is located in the area of the site designated as Flood Zone 1.

The Council's drainage engineer has advised that the developer must carry out trial holes and infiltration tests in accordance with BRE 365 at the location of the soakaways and permeable paving and at the proposed invert level of the soakaways and permeable paving in order to confirm whether or not ground conditions are suitable for soakaways and permeable paving.

The design for the surface water drainage system, soakaways and permeable paving must be submitted showing that they have been designed to cater for the critical 1 in 100 year storm event plus a 30% allowance for climate change. Further information to address this is awaited.

CIL

The proposal is for the addition to/improvement of an existing tourist facility, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district

centre retail and food and drink developments. Therefore the proposal would not attract a CIL payment.

Conclusions

The proposed development provides an improvement to a tourist facility within a Core Tourism Investment Area and therefore complies with Policy TO1 of the Torbay Local Plan 2012-2030. The proposal is deemed to be of an acceptable scale and design and subject to the receipt of further information relating to design and drainage is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

The following outline conditions are deemed necessary with final drafting of conditions to be delegated to the Executive Head of Business Services.

- o The submission of a revised of landscaping scheme for approval which shall be implemented prior to the first use of the annexe and retained as such at all times thereafter.
- o The proposal shall be built in accordance with the detailed plans and material samples hereby approved.
- o Submission of a revised travel plan.
- o Submission of a revised Car Parking Management Plan.
- o Prior to the first use or occupation of the annexe, the proposed parking spaces shall be provided for use by residents of the hotel and shall be retained as such at all times thereafter.
- o No external lighting shall be installed on the site until such details have been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed, operated, and maintained in accordance with the approved details.
- o Implementation of the drainage plan hereby approved.
- o Submission of finished floor levels taken from a fixed ordnance datum point.
- o Notice of at least 14 days in advance of the commencement of the work should be given in writing to the Council's Archaeology Officer and arrangements made for the officer to be on site when groundworks are proceeding. The developer shall allow access at all times for the officer to observe any groundworks or other excavations in order to record items of interest and finds as necessary.

- o If trees T16 and T17 located at the south of the site are damaged beyond retention or removed as a consequence of the development, details of two replacement trees shall be submitted to the Council for approval. The replacement trees shall be planted in the first planting season following the occupation/use of the development or completion of the development, whichever is the sooner, or in earlier planting seasons wherever practicable, and shall be retained at all times thereafter.

Relevant Policies

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Agenda Item 7

Application Number

P/2017/0571

Site Address

Land Off Brixham Road - Former Nortel Site
Long Road
Paignton
TQ4 7BL

Case Officer

Mr Scott Jones

Ward

Blatchcombe

Description

(Variation of conditions on planning application P/2014/0947/MOA): Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and/or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping. (Condition 32: Restrictive Goods Condition).

Executive Summary/Key Outcomes

This application is to amend Condition 32 (a restrictive goods condition) of the outline consent granted under reference P/2014/0947.

Permission P/2014/0947 granted consent for the demolition of buildings and mixed use development comprising up to 255 dwellings, up to 5,574sqm of business and/or warehouse uses, up to 8,501sqm of (bulky goods) retail with up to 515sqm garden centre and up to 139sqm of café/restaurant use, along with related infrastructure and detailed consent for the access, and all other matters reserved.

The decision to grant outline consent was finely balanced as the provision of the retail floor space in an out of town location was considered to have an adverse impact on the Paignton and Torquay town centres, and approaching a significant adverse impact, due to the poor health of the centres and their vulnerability to relatively small levels of impact. This remains a relevant contextual point in determining this application.

To limit the impact upon the town centres the decision to grant outline consent was subject to four conditions that restricted the nature and form of the retail element. These were;

Condition 32 (restrictive goods)

Condition 33 (total floorspace)

Condition 34 (minimum ground-floor floorspace of units)

Condition 35 (limit of concessions within retail units).

Condition 32 was imposed in order to limit the sale of comparison goods and retain the sale of goods towards the "bulky" end of the market. The condition limited sales from the retail units to eleven categories of retail goods, this did not include convenience (food) retail.

The application seeks to vary Condition 32 to permit the sale of a 12th category, being convenience (food) goods within one unit of up to 1,486sqm.

The amendment alters the retail offer within the scheme and the acceptability and impact of the change should be considered in terms of the current Local Plan, National Policy, and other relevant material considerations.

The key considerations are the acceptability and impact of introducing convenience (food) retail within the proposed development, and any impact upon the highway network.

Policy TC3 *Retail Development* of the Adopted Local Plan 2012-30 requires new out-of-centre retail development to meet three criteria and requires that (1) proposals do not cause any unacceptable impacts on the vitality and viability of existing or planned centres, (2) for there to be no town centre or edge of centre site to be suitable, available or viable, and (3) for the development to improve the spatial distribution of accessible facilities throughout the Bay and help achieve greater social cohesion.

The National Planning Policy Framework (NPPF) sets out two tests for assessing applications for town centre uses in out of centre locations, which align with criteria (1) and (2) of Local Plan Policy TC3, and these are the sequential test and the impact test, as outlined within Paragraphs 24, 26 and 27 of the NPPF.

Both Local and National policy guidance require the LPA to assess whether there is a sequentially preferable site and whether there is an unacceptable (Local Plan) / significant (NPPF) adverse impact upon town centres.

The Council's retail advisor has concluded that the applicant has not robustly demonstrated that the sequential test has been met and has not shown that there is no sequentially preferable alternative site for a convenience retail unit circa 1486sqm in size. The application fails the sequential test and national policy guidance is that where the sequential test is not met an application should be refused.

The second test is one of retail impact. Where it is concluded that the convenience store is likely to have a significant adverse impact upon town centres the application should be refused, as it would be contrary to local Plan Policies TC1-TC3 and the NPPF.

The Council's retail advisor has advised that Paignton town centre is vulnerable to even small changes and concluded that the applicant has not robustly demonstrated that the proposal would not have a significant adverse impact on that town centre.

The applicant states that the amendments are required to enable terms to be agreed with retail users in order to permit the implementation of a viable retail park following disappointing interest on the terms granted at outline stage. There is no detailed viability argument presented to support this notion.

The contribution that an approval for convenience retail could make to unlocking the development of the derelict brownfield site is a material consideration. However, paragraph 27 of the NPPF indicates that applications in out of centre locations should only be approved where both the sequential and impact tests are met, and therefore the interpretation and weight given to the sequential and impact tests is pivotal to consideration of the application.

Para 26 in the NPPF indicates that impact on committed and planned public and private investment in centres should be assessed, which gives weight to comments from the Torbay Development Agency. The TDA advise that the proposed development could jeopardise town centre investment and the delivery of town centre regeneration schemes. The Council and Torbay Development Agency's high priority to secure town centre regeneration is material to the determination of the application. It is in part in this context that it is concluded the retail issues outweigh other matters such as the provision of employment and housing.

There are three representations raising objections. The Paignton Neighbourhood Forum cites that the proposal fails the sequential test for food retail as Crossways could deliver the store, and has concern that the retail impact assessment is not robust enough. The two further representations raise concern in terms of traffic impact and the robustness of the assessment, along with certain points that appear to relate to the wider outline consent.

Recommendation

Refusal:

1. The applicant has failed to demonstrate that there are no sequentially preferable sites available to accommodate a convenience retail unit of around 1486sqm, having regard to the need for flexibility in the format and/or scale, and has failed to demonstrate that it is unlikely that the proposals would have a significant adverse impact upon existing town centres, meaning that the application is contrary to Policies TC1, TC2, TC3 and SS11 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF (Paras 24 and 27 and NPPG), and;

2. In the absence of a planning obligation to secure the sum of £36,744 as mitigation for the increased impact upon the Western Corridor caused by the additional traffic which would result from the introduction of convenience retail within the development, the proposal fails to secure critical infrastructure improvements. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policies SS6, SS7 and TA2 of the Torbay Local Plan, and paragraph 206 of the NPPF.

Decision Level/Statutory Determination Period

The application is before Members as the proposal is an amendment to a major application.

The determination date for this application is the 31st August 2017. The target date has been exceeded as further information was requested from the applicant on sequential testing and retail impact.

Site Details

The site comprises the former Nortel/Bookham site that is now known as "Devonshire Park" to the west of the Brixham Road on the outskirts of western Paignton. The site is a former industrial site that primarily manufactured electronics and closed in 2006. Following demolition of most of the buildings in recent years, the site is largely derelict.

The wider Devonshire Park site has an area of 9.76ha. The topography of the site rises by about 20 metres from south to north. The retail park section of the site (which is the subject of this application) is located in the southern part of the site, fronting Long Road and Brixham Road.

The buildings that sat on the southern part of the site have been largely demolished. The network of linked car parks still exists in the northern part of the site, which are framed by trees and hedgerows.

In terms of immediate context the site is bounded by housing, sports pitches and the Western Business Park to the north, Brixham Road to the east, Long Road to the south and South Devon College to the west.

The site is located within the greater horseshoe bat sustenance zone associated with the South Hams SAC at Berry Head. It is within Flood Zone 1 and within the Critical Drainage Area designated by the Environment Agency.

Parts of the site are known to be contaminated from the historic uses. The parts with most risk are to the south and particularly to the west, with lower risk to the north.

Detailed Proposals

The application is a Section 73 application that seeks to vary a condition on the extant mixed-use scheme in order to permit convenience (food) retail.

The extant outline consent granted permission for up to 255 dwellings, up to 5,574sqm of B1/B8 employment space, 8,501sqm of (bulky) retail, 515sqm garden centre and associated parking, servicing etc.

The proposal is to vary Condition 32 (Sale of goods within specified categories) of the outline consent to permit the sale of convenience goods within one unit of up to 1,486sqm within the retail element of the mixed use scheme.

Condition 32 currently permits the sale of the following goods;

- (i) Do-It-Yourself goods and materials;
- (ii) new kitchens and bathrooms;
- (iii) garden centre goods and materials, including plants;
- (iv) furniture and home furnishings
- (v) carpets and other floor coverings;
- (vi) gas and electrical goods;
- (vii) camping and associated leisure goods, no more than 10% of the net sales floor area of this category to be used for the sale or display of clothing and/or footwear;
- (viii) motor vehicle and bicycle related goods;
- (ix) pets and pet products;
- (x) office furniture; and
- (xi) ancillary products reasonably related to the categories above and restricted to a maximum floor area within each retail unit of 10% of the net sales floor area.

The proposal seeks an amendment to add the following wording to introduce the extra category, adding the wording;

(xii) Convenience goods within one unit up to 1,486sqm.

The applicant has stated that the amendment is necessary as following marketing of the retail park interest had been disappointing and they are currently unable to implement the extant permission as it is unviable.

The applicant has stated that they have reached agreement with two retailers and terms have been agreed with a third however this is a food retailer. The third retailer would make the scheme viable and thus if the amendment was granted the scheme could be delivered with the remaining retail floor space being built speculatively.

It is also stated by the applicant that once a viable retail element is secured it will trigger the remediation of the northern part of the site where the residential

elements of the extant permission will be delivered and hence the amendment sought will aid in the regeneration of the whole of the Devonshire Park site.

Summary Of Consultation Responses

The Council's Retail Advisor (GVA)

There are two clear issues, the sequential test and the retail impact test. Both are engrained within Local and National planning policy.

Following a review of the additional information submitted by the applicant, the Planning and Retail Statement Addendum (July 2017), the advice is as follows;

The sequential test:

The information submitted by the applicant to support the application, principally the PRSA (January 2017) and the PRSA Addendum (July 2017), has not provided sufficient information to demonstrate compliance with the sequential test.

In particular the applicant has failed to demonstrate that White Rock and Yannons Farm Local Centres, and Crossways Shopping Centre and Brixham Middle Street town centre sites, are not suitable and available alternatives to the application site, for the following reasons;

White Rock Local Centre -

This is a new centre in a sequentially preferable location and it has planning permission for a foodstore. It is therefore a suitable and available alternative to the application site for a convenience store of a similar scale to that which is proposed.

Yannons Farm Local Centre -

The applicant has failed to provide further information to demonstrate that the proposal cannot be accommodated in or on the edge of the Local Centre.

Crossways Shopping Centre and Brixham Middle Street -

Both sites have long been promoted as retail development sites and are being treated as high priority sites in terms of the Council's regeneration programme. They are both continuing to be subject of further appraisal work by the Torbay Development Agency and the Torbay Development Agency advises that retail floorspace remains a key focus for both sites.

In light of the information available it is advised that as the application fails the sequential test it should be refused in-line with Paragraph 27 of the NPPF.

Retail impact:

There is concern about the reliability of the applicant's data as analysis is based upon historic shopping patterns, leading to a situation where (i) the survey data has had to be manually adjusted to take into account a number of recent foodstore

openings, (ii) there is no recent assessment of the impact of the proposal on existing investment in nearby town centres, and (iii) there is no up-to-date assessment of the health of Paignton and Torquay town centres.

Notwithstanding the above on the assumption that the applicant's analysis of the likely trade diversion is reasonable it suggests that there would be a 6% loss in terms of total turn-over on Paignton town centre. This is a similar level to the extant permission for Devonshire Park. If correct whilst the financial impact could be to a similar level the breadth of effect on Paignton town centre will be widened as the scheme would be competing with the town centre on both comparison and convenience goods. This is a concern as previous advice indicated the vulnerability in the health of Paignton town centre and lead to conclude that even small levels of trade loss could be harmful. The Council should be aware that the available data indicates that that Paignton town centre is becoming even more vulnerable as it loses market share across both convenience and comparison goods sectors, which is a concern.

On the current available evidence the overall impact on the health of and investment within Paignton town centre is likely to be unacceptable due to the likely financial trading impact, the growing trading overlap, and due to the evidence regarding the vulnerability of the town centre and evidence of a falling market share.

Para 27 of the NPPF notes that proposals likely to have significant adverse effects on centres should be refused. Policy TC3 of the Local Plan notes that out of centre retail development proposals should not cause "unacceptable impacts" to the vitality and viability of existing and planned centres.

It is concluded that the proposal fails the sequential test and is likely to cause unacceptable impact upon Paignton town centre, which is vulnerable to even small changes.

Strategy and Project Officer (regarding retail and highway and transport matters):

Retail matters:

Sequential test

There is agreement with the Council's retail advisor (GVA) that in terms of the sequential test the relevant consideration should be whether there is scope to provide up to 1,486sqm of convenience retail (with reasonable flexibility over format and scale) in a sequentially preferable site and not the whole of the permitted floorspace of the extant scheme.

The sequential test is set out in NPPF 24 and Policy TC3 (D) of the Adopted Local Plan. Policy TC3(D)2 requires there to be no other town centre or edge of centre site that is suitable, available or viable.

Notwithstanding that the applicant has argued that Devonshire Park has overcome the sequential assessment in gaining permission; the proposed sale of convenience goods is different from the range of (mostly) bulky goods permitted to be sold under P/2014/0947 and therefore it is correct that the Council has sought a sequential assessment of the proposed convenience floorspace alone.

On the information available, the advice from GVA is that the proposal fails the sequential test as there are sequentially preferable sites at White Rock Local Centre, Crossways (Paignton town centre) and Middle Street (Brixham town centre). It is reasonable to assess that Yannons Farm is not a sequentially preferable site.

Impact test

The impact test is set out in Policy TC3 (D)1 of the Local Plan and paragraph 26-27 of the NPPF. The Local Plan refers to "unacceptable" impacts whereas the NPPF refers to "significant adverse impact". The intention of the two policies is similar.

The current application must consider the additional impact of convenience retail, since the principle of albeit relatively bulky comparison goods has already been approved.

GVA have broadly accepted the applicant's general assessment that the proposal is likely to have a 6% loss of retail turnover in Paignton Town Centre, which is similar to the overall impact of the approved retail development at Devonshire Park, which is a material consideration to take into account.

The applicant has not provided updated household survey data, arguing that the 2013 Retail Study is proportionate to determining the application as it informed the Local Plan.

Aside the lack of up-to-date data there are apparent reasons to consider that Paignton town centre continues to struggle in terms of its retail position. At July 2016 there was 18% vacancy in Paignton, up from 15% in 2015.

On balance GVA advise that the "overall impact on the health of the town centre is likely to be unacceptable". Added to this that the Torbay Development Agency has objected to the application on the basis of the effect on town centre regeneration proposals. NPPF Paragraph 26 indicates that impact on committed and planned public and private investment in centres should be assessed, which give some weight to the comments of the Torbay Development Agency.

The conclusions of the Council's retail advisor are supported.

Spatial distribution of facilities

Closely linked to retail impact considerations, Policy TC3 (D)3 seeks to improve

the spatial distribution of accessible facilities throughout the Bay and to help achieve social inclusion. It should be noted that the Western Corridor area is well served with food stores and an additional store could reinforce the position of most food stores being relatively inaccessible to people with no access to a car. The Indices of Deprivation clearly show Paignton town centre as a deprived area. The proposal appears discordant with the aims of TC3(D)3 and Policy SS11.

Highway impact:

The application is supported by a Transport Assessment including a TRICS assessment, to assess the impact of convenience retail upon the immediate road network. This concluded that the traffic impact can be accommodated within the existing highway network, and does not create specific capacity log jams. It also noted that a number of trips will be passing or shared trips.

Notwithstanding the Transport Assessment convenience retail has a greater impact on the road network than non-food. TRICs indicates that Retail Parks excluding food generate fewer trips per day than those retail parks that include food sales.

On this basis of a food store of 1,486 sqm a contribution of £36,744 has been agreed with the applicant to mitigate the additional impact upon the highway network. This contribution should be secured to be used towards projects on the Western Corridor in accordance with Policy SS6.2.ii, and SS7 of the Adopted Local Plan.

Torbay Development Agency Town Centres Regeneration Programme Director

This out of centre food outlet does not accord with the Local Plan. Town centre regeneration is now one of the Council's top transformation projects to which significant resources are being committed.

The Council has adopted (April 2017) a Transformation Strategy for Torbay's Town Centres, which now forms part of the Council's Economic Strategy. The Strategy sets out a 10 year programme for successful town centre regeneration and, specifically, identifies delivery activities over the next 3 years (Phase 1 of the regeneration programme). The key purpose of Phase 1 is to build confidence - investor confidence; developer confidence; confidence by communities in delivery of town centre regeneration etc. That confidence, and the Council's efforts, will be undermined by any further significant increase in food retail out of town.

Food retail is a key element of viability for several key town centre regeneration projects, including Victoria Centre and Crossways in Paignton and Brixham Town Centre Car Park. The Council's considerable efforts and financial support for town centre regeneration is highly likely to be undermined by additional significant out of town food retail, as it will be much more difficult to achieve viable development of regeneration sites and more difficult to secure momentum in the delivery of town centre regeneration.

Summary Of Representations:

There are three representations raising objections.

The Paignton Neighbourhood Forum cites that the proposal fails the sequential test for food retail as Crossways could deliver the store, and has concern that the retail impact assessment is not robust enough.

The two further representations raise concern in terms of air quality, tree removal, overlooking and traffic impacts, which appear directed towards the broader extant scheme rather than the amendment sought through this application.

Relevant Planning History:

P/2017/0493 and P/2014/0494:

Two options for groundworks, including the demolition of remaining structures, grubbing out of trees, foundations and floor slabs, remediating contamination and earth works to re-profile the site. Resolved approval by Development Management Committee subject to detail - Pending formal decisions.

P/2017/0123:

Variation of condition P1 of P/2014/0947 (as amended) (Outline Application with all matters reserved except access) - to vary Condition (P1) detailed approved plans to vary the access arrangement off Long Road. Resolved Approval by Development Management Committee - Pending formal decision subject to formalising deed a variation to the original S106 legal agreement.

P/2016/1372:

Variation of condition P1, 34 and 35 of P/2014/0947 (Outline Application with all matters reserved except access) - to vary Condition (P1) - Approved Plans to omit reference to the Masterplan, Condition (34) to vary the minimum unit size restriction for 1 unit and Condition (35) to clarify the restriction of concessions. Resolved Approval by Development Management Committee - Pending formal decision subject to formalising deed a variation to the original S106 legal agreement.

P/2014/0947:

Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping. Approved 22.03.2016 (Subject to a legal agreement and conditions).

Key issues/Material considerations:

The key issues are:

1. The provision of convenience retail in terms of; (a) satisfying the sequential test, and (b) the retail impact upon existing and planned centres in terms of investment, vitality and viability, and;
2. Highway and movements impacts.

1. The Provision of a Convenience Retail Unit of 1,486sqm

The two key issues are the sequential test and the retail impact test.

The sequential test is to consider whether there is a more suitable site available to deliver the development. The retail impact test is to consider the impact upon existing and planned centres. Each of these tests will be considered in detail below.

1(a). The Sequential Test

The sequential test is relevant as the site is in an out-of-centre location as it is not designated within the local retail hierarchy as a town, district or local centre and is not within an area allocated or intended to be allocated for convenience retail use in the Torbay Local Plan.

The sequential test is necessary in order to consider whether there is a more appropriate location available that could deliver the development, as convenience retail is a main town centre use as defined by the NPPF. The NPPF, as outlined in Paragraph 24, requires that a sequential test should be applied to planning applications for main town centre uses that are not proposed in an existing centre and are not in accordance with an up-to-date Local Plan.

In regard to local policy context Policy TC3 *Retail Development* of the Local Plan states that new out-of-centre retail development must meet three criteria, one of which is that no other town centre or edge-of-centre site is suitable, available or viable. This aligns with the aforementioned sequential test guidance in the NPPF.

Paragraph 27 of the NPPF states that where an application fails to satisfy the sequential test it should be refused, which is a premise supported within Local Plan Policy TC3.

The applicant has provided a Planning and Retail Statement Assessment (PRSA) dated January 2017 in support of the proposal which includes sequential testing (Section 7). The applicant has also submitted a PRSA Addendum dated July 2017 that seeks to provide additional analysis in regard to the sequential assessment (Section 2) following initial comments from the Council's retail advisor.

In relation to the approach to the sequential test the applicant has presented that the whole of the retail floor space of the extant scheme should be considered. The

Council's retail advisor (GVA) has advised that this approach is not correct and as the proposal is to modify the sale of goods from one unit up to a stated size the consideration should be whether this proposed use could be delivered in a more sequentially preferable site. The applicant has considered this advice and the PRSA Addendum does consider the provision of a stand-alone unit rather than the provision of the retail park as a whole.

The sites identified for sequential assessment are Crossways (Paignton town centre), Victoria Square (Paignton town centre), Middle Street (Brixham town centre), Preston District Centre, and Yannons and White Rock Local Centres. The assessment of each of these sites will be covered in turn below.

Crossways, Paignton town centre

Crossways is genuine town centre site and has a Local Plan allocation as such (Policy TC2.1.2). The NPPF seeks to promote competitive town centre environments and recognise these as the heart of the community (Para 23). The submitted Neighbourhood Plan (Policy PNP8) envisages a retail role for the centre, but does not make a firm proposal for a supermarket.

The applicant contends that the current retail space is not suitable for retail use as the centre has been vacant for a number of years and the site is proposed for redevelopment within the Local Plan and the adopted Town Centre Masterplan SPD for Paignton. It is, for these reasons, considered reasonable to exclude the current building as a potential sequentially preferable site. Therefore the site's suitability and availability hinges upon a redevelopment scheme being deliverable.

The applicant contends that the site is not available as there is no publically available regeneration scheme. The Torbay Development Agency has indicated that Crossways is a priority site for regeneration and it has been expressed that an application for a mixed use retail and residential scheme is expected soon.

Given the priority of the Council and Torbay Development Agency to secure development of Crossways, the Council's retail advisor (GVA) advises that the applicants' assessment falls short of what is expected to demonstrate that Crossways as a redevelopment site is not suitable or available.

On the basis of the evidence presented by the applicant and the comments of the Torbay Development Agency's Town Centres Regeneration Programme Director, and considering the advice of the Council's retail advisor, it is deemed reasonable to consider Crossways is a sequentially preferable site at the present time in terms of its potential for redevelopment.

The above judgement is made on the information in the current context and hence Members should be aware that if progress is not made towards a food store application within a reasonable period, then in time it may be unreasonable to consider the site available for sequential test purposes.

Victoria Square, Paignton town centre

Like Crossways, this is a genuine town centre site for Paignton however the site is occupied by a food retailer and other units within the centre are too small to accommodate the proposed floor space. In the circumstances, this location can be dismissed as a sequentially preferable site.

Middle Street, Brixham town centre

This is also a genuine town centre site (TC2.1.3) located in the heart of Brixham. Previously the site was committed for mixed use retail and residential development however the permission has now expired (for context planning permission P/2012/1309 granted consent for mixed use including 2,791 sqm net sales area, plus 218 sqm ancillary retail). It is noted that the submitted Brixham Neighbourhood Plan wishes to see a small-medium sized supermarket as well as other units and parking on the site.

The applicant's sequential assessment seeks to assert that at this current time there is no viable development proposal for the site and no identified development partner (for this Council owned site) and that this means that there is no timescale for this development and therefore the site is unavailable for the proposed development.

Current advice from the Torbay Development Agency is that the future of this site is less certain than Crossways, however they are currently seeking to appoint consultants from the HCA Property Panel to help work up a viable scheme.

The Council's retail advisor has advised that the applicants have not shown that development could not be achieved in a reasonable period of time and hence this site should be considered a sequentially preferable site for the proposed development at this moment in time.

Similar to the situation with Crossways, Members are advised that this is a judgment as matters stand and this view may need to be adjusted if reasonable progress is not made towards progressing a scheme for the site.

Preston District Centre

The applicant's assessment is considered reasonable and the Council's retail advisor agrees with the conclusions that there are no suitable and available sites in Preston District Centre. It is noted in particular the Vauxhall Garage is identified for residential use in the Adopted Local Plan.

Yannons Local Centre

Yannons Local centre contains an Aldi food store and is unlikely to be able accommodate another food store of the scale proposed. Although not presently robustly demonstrated by the applicant it is likely that the centre could be dismissed as a potential sequentially preferable site.

White Rock Local Centre

White Rock proposed Local Centre appears to be deliverable and has permission (P/2011/0197/MOA and reserved matters application P/2016/0411) for a foodstore of a similar scale. The site is designated as a Local Centre in the Adopted Local Plan and therefore is a sequentially preferable site that is suitable and available. The applicant has not addressed this in their PRSA Addendum.

It is noted that the White Rock Local Centre and Devonshire Park site are similarly located on the Western Corridor and they display similar characteristics in terms of scale, location and access. However White Rock is an identified Local Centre and sits in the retail hierarchy of the Local Plan. They are distinctly different in this respect.

Having considered the accompanying information in support of the application and having given due consideration to the comments of the Torbay Development Agency's Regeneration Programme Manager and the Council's retail advisor (GVA) the proposal is considered to fail the sequential test as there appears three sequentially preferable sites. These are White Rock Local Centre, Crossways (Paignton town centre) and Middle Street Car Park (Brixham town centre).

As the proposal is considered to fail the sequential test the application should be refused in-line with the Local Plan Policy TC3 and the NPPF (Para 27) as there are preferable sites that could deliver what is a town centre use.

1(b). Impact on Town Centre Investment and Vitality and Viability

The second test is one of retail impact.

NPPF provides clear advice that proposals with the potential to generate a significant adverse impact upon town centres should be refused planning permission (Paragraph 27). It is worth noting that the NPPF does not require an impact test to be carried out if the sequential test has not been passed. However, it is considered appropriate to consider the impact of the proposal in order to present a comprehensive picture.

Where the impact is adverse but not significant other benefits of the development, such as regenerating a derelict brownfield site, can be weighed against the harm to town centres when determining the application.

Policy TC3 of the Local Plan provides relevant policy guidance in regard to new out-of-centre retail development. Policy TC3 cites that proposals must meet 3 criteria, these being;

1. Proposals should not cause any unacceptable impacts either individually or cumulatively on the vitality and viability of existing or planned centres;
2. No other town centre or edge of centre site is suitable, available or viable; and
3. Development would improve the spatial distribution of accessible facilities.

The local and national tests are worded slightly differently however they seek to achieve similar goals, to promote competitive town centres and support their viability and vitality.

Because of the sensitivity of Torbay's town centres to out of centre retail, the Local Plan sets a threshold of 500 sq m to trigger the impact test, which is below the baseline 2,500 sq m in the NPPF.

In terms of context for Members the decision to grant outline consent under planning reference P/2014/0947 was finely balanced as the provision of the retail floor space was considered to have an adverse impact on town centres, and near to a significant adverse impact, due to the poor health of the centres and their vulnerability to relatively small levels of impact.

During consideration of the outline consent the Council's retail consultant raised concern on the potential for a significant adverse impact on town centres. The parameters for the retail element were subsequently evolved and ultimately measures were identified to try and reduce the likely trading overlap between the comparison goods sectors to prevent a significant adverse impact.

Subsequently the Council's retail advice concluded that the revisions including terms of the range of goods that could be sold would reduce the trading overlap and in turn reduce the financial impact on these centres. It was however concluded that although the restriction in goods may reduce the scale of risk regarding the significant adverse nature of any impact, the scale could remain significantly adverse as both centres are susceptible to relatively small levels of impact.

Outline permission was ultimately granted which was likely to have an adverse impact, but not a significant adverse impact, on town centres, and as stated above conditions were attached to limit the risk of a significant adverse impact on town centres, which included the range of goods to be sold.

Condition 32 was attached in order to limit the sale of comparison goods. Members are reminded that the permission permitted the sale of eleven categories of retail goods, which were;

- (i) Do-It-Yourself goods and materials;
- (ii) new kitchens and bathrooms;
- (iii) garden centre goods and materials, including plants;
- (iv) furniture and home furnishings;
- (v) carpets and other floor coverings;
- (vi) gas and electrical goods;
- (vii) camping and associated leisure goods, no more than 10% of the net sales floor area of this category to be used for the sale or display of clothing and/or footwear;
- (viii) motor vehicle and bicycle related goods;

- (ix) pets and pet products;
- (x) office furniture; and
- (xi) ancillary products reasonably related to the categories above and restricted to a maximum floor area within each retail unit of 10% of the net sales floor area.

The current application seeks to introduce a convenience retail unit of 1,486sqm, as a 12th category. The retail impact of this is discussed below.

It is clear that the outline consent was granted on balance with restrictive conditions to reduce the risk of a significant adverse impact on town centres, which included the type of goods to be sold. As there was clearly considerable concern over the level of the likely adverse impact any relaxation of the restrictive conditions should be duly considered due to the previously cited susceptibility of town centres to relatively small levels of impact.

The submitted PRSA and PRSA Addendum has been considered by the Council's retail advisor and will be discussed below.

There is concern about the reliability of the applicant's data as analysis is based upon historic shopping patterns. This leads to a situation where the survey data has had to be manually adjusted to take into account more recent foodstore openings in the area, there being no assessment of the impact of the proposal on existing investment in nearby town centres, and there being no up-to-date assessment of the health of Paignton and Torquay town centres. However, the Council does not have any reliable data on shopping patterns other than the 2013 Retail Update (which in part used 2012 survey data); on this basis it is accepted that all parties are using the best information currently available.

The Council's retail advisor has accepted the assertion that the likely trade diversion is similar to the extant scheme with a likely 6% loss in terms of total turnover on Paignton town centre.

However whilst the financial impact may be to a similar level there is a concern that the breadth of effect on Paignton town centre will be widened. This is principally as the scheme would subsequently be competing with the town centre on both comparison and convenience goods trading areas. In this case the applicant has reported that the convenience store is necessary in order to achieve a viable development to commence and bring forward in the market.

There is concern that this increase in the trading overlap between Devonshire Park and Paignton town centre may have a likely significant effect. Previous advice indicated the vulnerability in the health of Paignton town centre and lead to a conclusion that that even small levels of trade loss could be harmful.

The data available indicates that Paignton town centre is becoming even more

vulnerable as it loses market share across both convenience and comparison goods sectors. In terms of information that is available for comparison goods total spend remained static between 2007 and 2013 in the context of significant growth expenditure within this time period. This indicates a loss of market share. In terms of convenience turnover within the town centre this fell from £30.4 m in 2007 to £17.8m in 2013. A significant loss in turnover and market share.

On the current available evidence the overall impact on the health of and investment within Paignton town centre is likely to be unacceptable due to the likely financial trading impact, the growing trading overlap, and due to the evidence regarding the vulnerability of the town centre and evidence of a falling market share. It may also undermine the Council's efforts to support regeneration schemes within the town centres.

Paragraph 27 of the NPPF notes that proposals likely to have significant adverse effects on centres should be refused. Policy TC3 of the Local Plan out of centre retails development should not cause "unacceptable impacts".

It is concluded that the proposal fails the retail impact test having considered the comments of the Council's retail advisor and the advice to Members is that as there is a likely significant impact then, particularly as Paignton town centre is vulnerable, the proposal should be refused in accordance with the NPPF and Policy TC3.

Spatial Distribution of accessible facilities

Closely linked to retail impact considerations, Policy TC3 (D)3 seeks to improve the spatial distribution of accessible facilities throughout the Bay and to help achieve social inclusion. The Western Corridor area is well served with food stores and there is a danger that allowing an additional store could reinforce the position of most food stores being relatively inaccessible to people with no access to a car. The Indices of Deprivation clearly show Paignton town centre as a deprived area and as previously discussed the provision of convenience food may impact town centre regeneration, which is often underpinned by a food retail presence within a scheme. The proposal, for these reasons, is considered not to accord with the aspiration of TC3(D)3 in terms of seeking to improve the spatial distribution to facilities. Similarly, it could conflict with the aims of Policy SS11 to help close the gap between the most and least disadvantaged, and reduce social exclusion.

2. Impact upon the highway network and movement

Notwithstanding the Transport Assessment convenience retail is considered to have a greater impact on the road network than non-food.

The difference in trip rates between "with food" and "without food" retail parks is 48.2 trips per 100 sq m. On this basis 1,486 sq m food store on a retail park would generate 716.25 more trips than the same unit selling non-food.

The Adopted Planning Contributions SPD seeks transport contributions based on

£171 per trip (based on the assessed cost of delivering the LTP and highway infrastructure in Future Growth Areas).

Following discussion of the expected linked trips the Council's Strategic Transport Officer has agreed a figure to £36,744.00 in terms of required mitigation.

The monies would be used towards projects on the Western Corridor as per Policy SS6.2.ii, and SS7 of the Adopted Local Plan.

On the basis of the above, it is considered appropriate to seek a S106 Obligation as above to mitigate additional traffic generated by convenience sales should Members grant permission.

The existing Section 106 agreement would need to be tied to the new application through a deed of variation to include the transport obligation outlined above should Members wish to approve the scheme.

This should be completed prior to the formal determination of the application.

Subject to the above the proposal is considered acceptable on highway safety grounds and compliant with the aims and objectives of policies TA2, and DE1 of the Torbay Local Plan 2012-2030. A retail travel plan is required for the development under the conditions previously imposed.

S106/CIL

As stated above a S106 contribution of £36,744.00 would be required to mitigate the impact of additional vehicular movements that would be generated by the proposal.

The proposal is not CIL liable as it is an amendment to an extant planning permission and does not increase floorspace. However CIL will be liable on any future increase in retail floorspace, should this occur.

Statement of Pro-active Working

The Council has sought to work positively and proactively with the applicant through pre-application discussions and through open dialogue throughout the application process including requests for further information.

Local Finance Considerations

The applicant cites that the convenience store is necessary in order to provide the necessary quantum of interest to make commencement of the outline consent viable.

Delivery will bring a number of economic benefits to Torbay through the mixed provision of housing, retail and employment space.

However the economic consideration should also include the retail impact upon town centres and the potential loss of retail jobs in retail elsewhere in Torbay and adverse impact upon town centres.

Consideration should also be given to whether it has been demonstrably shown that the development would not come forward as approved without the provision of a food store and the potential retail impact of this.

The extent to which the application will secure the regeneration of the derelict site and provide housing and employment are material considerations. On the one hand, the NPPF operates a presumption in favour of sustainable development, which is echoed by Policy SS3 of the Local Plan). The delivery of housing has been held to create a "tilted balance" in favour of granting planning permissions where five year supply is at stake. Devonshire Park is being counted in part as part of the Council's five year supply (160 units out of 255 total).

The applicant refers to the need to secure a third retailer to make the Devonshire Park development viable. However, there appears to be no guarantee or solid viability evidence that allowing convenience retail will ensure speedy delivery of the housing and employment.

The Council negotiated application P/2014/0947/MOA in good faith and allowed bulky retail, which was potentially contrary to the NPPF and the then extant development plan, in order to enable regeneration and boost housing. It has subsequently allowed a relaxation in the size of one unit.

It will be for members to decide whether the end-point is one they would have been initially willing to approve.

Human Rights and Equality Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Environmental Impact Assessment

The proposal has been screened in accordance with the current Environmental Impact Assessment Regulations. The proposal is not considered to be EIA development and does not need to be supported by an Environmental Statement.

Conclusions

The provision of a convenience food store is not supported for the following

reasons.

Firstly the proposal fails to satisfy the sequential test that is ingrained within the Local Plan (Policy TC3) and the NPPF (Paras 24 and 27), as it is considered that there are sequentially preferable sites available and viable at White Rock Local Centre, at Crossways in Paignton town centre, and at the Middle Street car park site in Brixham town centre to deliver a convenience store circa 1486sqm in size. In line with policy guidance, where there are sequentially preferable sites, it should be refused. The Council's retail advisor has concluded that the sequential test has not been met.

Secondly the proposal has failed to demonstrate that it is unlikely to have a significant adverse impact on existing or planned centres.

The Council's retail advisor has concluded that the applicant has failed to robustly demonstrate that there would not be a significant impact and has principally raised concern over the vulnerability of Paignton town centre.

The introduction of convenience retail is indicated by trip rate analysis (TRICS) to generate an increase in vehicular traffic. The Highways Authority has requested a S106 Contribution towards mitigating the effect of this upon the Western Corridor. This has not been furthered as the proposal fails on other grounds and should be included as a reason for refusal in the context.

The conclusions above have sought to acknowledge that the planning policy situation is complex, however whilst the matter is finely balanced it is considered that the application fails the sequential test and impact tests. In particular it could jeopardise town centre investment and the delivery of town centre regeneration schemes. It could also reinforce a relatively inaccessible distribution of food retail.

The Council and Torbay Development Agency's high priority to securing town centre regeneration must be given significant weight. It is in-part in this context that the retail issues outweigh other matters such as the provision of employment and housing.

The officer recommendation is therefore one of refusal in line with Policies TC, TC2, TC3, SS6, SS7, TA2 and SS11 of the Torbay Local Plan 2012-2030 and Paragraph 27 of the NPPF.

Condition(s)/Reason(s)

01. the applicant has failed to demonstrate that there are no sequentially preferable sites available to accommodate a convenience retail unit of around 1486sqm, having regard to the need for flexibility in the format and/or scale, and has failed to demonstrate that it is unlikely that the proposals would have a significant adverse impact upon existing town

centres, meaning that the application is contrary to Policies TC1, TC2, TC3 and SS11 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF (Paras 24 and 27 and NPPG).

02. in the absence of a planning obligation to secure the sum of £36,744 as mitigation for the increased impact upon the Western Corridor caused by the additional traffic which would result from the introduction of convenience retail within the development, the proposal fails to secure critical infrastructure improvements. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policies SS6, SS7 and TA2 of the Torbay Local Plan, and paragraph 206 of the NPPF.

Informative(s)

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, in the event the applicant was unable to satisfy the key policy tests in the submission and as such the application has been refused.

Relevant Policies

TC1 - Town Centres
TC2 - Torbay retail hierarchy
TC3 - Retail Development
SS6 - Strategic transport improvements
SS7 - Infrastructure, phasing and employment
SS11 - Sustainable Communities Strategy
TA2 - Development access

Agenda Item 8

Application Number

P/2017/0685

Site Address

Land Adjacent To Brixham Road South Of The Premier Inn Hotel.

Case Officer

Carly Perkins

Ward

Blatchcombe

Description

Development of Innovation Centre (Use Class B1a and B1b) with associated parking and landscaping

Executive Summary:

The application site is approximately 0.76ha in size and is located to the west of Brixham Road which is part of the Torbay Major Road Network. The site is located to the south of the existing Premier Inn Hotel and Beefeater Restaurant and north of the proposed White Rock Local Centre. A retail store and student accommodation building has been approved in this location under reference P/2016/0411. The application site is noted as a committed and other deliverable development site under policy SPD3.5 of the Torbay Local Plan for both housing and employment uses. The site is within the White Rock development area granted consent in 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197. Various applications for residential, retail, student accommodation and office development have also gained approval including consent for an innovation centre (use class B1) in 2012 under application reference P/2012/0706.

The site is located within Flood Zone 1, Critical Drainage Area and the greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head.

There are 8 unprotected trees within the application site.

The proposal is for full planning permission for the erection of a 4 storey use class B1 (offices and research and development) building of 3,834sqm of gross floorspace. 2,343sqm of this space is net lettable B1 floorspace (providing 42 separate offices/laboratories) and this is supported by 131sqm of meeting rooms and breakout spaces providing a total of 2,474sqm net floorspace. The proposed building is intended to build on the success of the existing innovation centres to provide new opportunities for the development of companies and job creation. The applicant has advised that it is intended to provide 160 new jobs as a result of the development.

The building would be situated adjacent to Brixham Road with the car parking area on the western side adjacent to the Premier Inn car park. It would have a similar position relative to Brixham Road as the Premier Inn. The building would be one

storey higher than the adjoining hotel. The applicant has advised that the intention is that this should be seen as the 'flagship' building amongst the others in this locality. Consequently it will have a bold presence in the townscape. As such the proposal will make a positive contribution towards providing a strong frontage to Brixham Road which was an objective identified in the Design and Access statement for the outline White Rock consent.

The proposed building is largely 4 storey with the exception of the entrance core which provides access to the roof. The proposed materials for the building are render, brick plinth, zinc panels, curtain walling, zinc vertical standing seam cladding, brise soleil and PPC aluminium. It would have a modern appearance with a flat roof. The design comprises three elements which break up the overall mass of the building. These comprise two main linear office blocks and a central atrium. Ground floor level would relate to the car park area. Due to changes in topography on the site, steps and a graded path are proposed from Brixham Road. The design concept is considered appropriate in this location and the proposal would enhance the existing townscape, strengthening the appearance and identity of this part of Brixham Road.

The proposal includes 97 parking spaces (including 5 designed for use by disabled persons) and 24 cycle spaces. Vehicular access to the site is via Waddeton Road, off Long Road. Should application reference P/2016/0411 for the retail store and student accommodation on the adjoining site be implemented access could also be achieved from Waddeton Road via Whiterock Way. Pedestrian access is proposed directly from Brixham Road and via Whiterock Way.

The tree report submitted in support of the application states that the proposals will result in the loss of 8 of unprotected trees. 19 additional trees are proposed as part on an on-site landscaping scheme.

The principle of providing new employment floorspace through the provision of a high quality building in this location is supported, and is consistent with objectives in the Torbay Local Plan to secure economic regeneration and inward investment to Torbay. A number of issues are outstanding. These are currently being considered further by the applicant and further information is expected to resolve these issues. Subject to the submission of revised plans to show the additional cycle parking and a revised landscaping scheme, consideration of the submitted ecological surveys and resolution of the mitigation measures required, submission of a transport assessment, revised drainage information and conditions, the proposals are considered to accord with the provisions of the Torbay Local Plan 2012-2030, specifically Policies SS4, SS5, SS8, SS11, DE1, DE3, TA1, TA2, TA3, NC1, C4, ER1, ER2 and appendix F of the Torbay Local Plan 2012-2030.

Recommendation:

Conditional Approval, subject to the expiry of the consultation period and no new issues being raised, submission of revised plans to show the additional cycle

parking and a revised landscaping scheme, consideration of the submitted ecological surveys and resolution of the mitigation measures required, submission of a transport assessment, clarification regarding deliveries and refuse collection, the submission revised drainage information and completion of a HRA screening. Final drafting of conditions to be delegated to the Executive Head of Business Services.

Recommended conditions:

1. Landscaping
2. Details of plant
3. Parking provision
4. Cycle storage provision
5. Electrical charging
6. Waste storage provision and waste management plan
7. Materials
8. Large scale details
9. Travel plan
10. Lighting
11. Drainage
12. Construction method statement
13. Nest Boxes
14. No external storage
15. Biodiversity mitigation (method statements, relocation and translocation of reptiles and crickets)
16. No vegetation clearance in bird nesting season
17. LEMP
18. Contamination
19. Hard landscaping and boundary treatments
20. Secured by design

Reason for Referral to Development Management Committee:

The application is a major application and is therefore required by the constitution to be determined by DM committee. The Council currently owns the majority of the application site and is in the process of acquiring additional land. The application has also submitted on behalf of the Council by the Torbay Development Agency.

Statutory Determination Period:

13 weeks, the decision date is the 4th October 2017.

Site Details:

The application site is approximately 0.76ha in size and is located to the west of Brixham Road which is part of the Torbay Major Road Network. The site was previously occupied by an office/industrial building and Roundhouse building which has since been demolished. The site is located to the south of the existing Premier Inn Hotel and Beefeater Restaurant and north of the proposed White Rock

Local Centre. A retail store and student accommodation building has been approved in this location under reference P/2016/0411. Vehicular access to the application site is from Waddeton Road, via Long Road and Brixham Road. The application site is noted as a committed and other deliverable development site under policy SPD3.5 of the Torbay Local Plan for both housing and employment uses. The site is within the area the subject of the White Rock development granted consent in 2013 for approximately 37,000 square metres of employment space, 350 new homes and a local centre under reference P/2011/0197. Various applications for residential, retail, student accommodation and office development have also gained approval as part of the wider White Rock development. One of the permissions was for an innovation centre (use class B1) in 2012 under application reference P/2012/0706 which was proposed in a similar location to this current proposal.

The site is located within Flood Zone 1, Critical Drainage Area and the greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head.

There are 8 unprotected trees within the application site.

The site is fairly level with the exception of the area adjacent to Brixham Road where the land slopes up towards Brixham Road.

Detailed Proposals:

The proposal is for the erection of a 4 storey use class B1 building of 3,834sqm of gross floorspace. 2,343sqm of this space is net lettable B1 floorspace (providing 42 separate offices/laboratories) and this is supported by 131sqm of meeting rooms and breakout spaces providing a total of 2,474sqm. The proposal includes 97 parking spaces (including 5 designed for use by disabled persons) and 24 cycle spaces. Vehicular access to the site is via Waddeton Road, via Long Road but should application reference P/2016/0411 for the retail store and student accommodation on the adjoining site be implemented access could also be achieved from Waddeton Road via Whiterock Way. Pedestrian access is proposed directly from Brixham Road and via Whiterock Way. Refuse storage is also proposed within the site.

The proposed building is largely 4 storey with the exception of the entrance core which provides access to the roof. The proposed materials for the building are render, brick plinth, zinc panels, curtain walling, zinc vertical standing seam cladding, brise soleil and PPC aluminium. The design of the buildings comprises three elements which break up the overall mass of the building. These comprise two main linear office blocks and a central atrium. The tallest part of the proposal is the entrance core which sits alongside the Premier Inn Hotel site and provides a focal point for the wider building. This forms the entrance from Brixham Road and from the car park area and Waddeton Road entrance.

The building would be situated adjacent to Brixham Road with the car parking area on the western side adjacent to the Premier Inn car park. It would have a similar position relative to Brixham Road as the Premier Inn.

The tree report submitted in support of the application states that the proposals will result in the loss of 8 of unprotected trees. 19 additional trees are proposed as part on an on-site landscaping scheme.

Summary Of Consultation Responses:

Senior Strategy and Project Officer: Application reference P/2016/0411 was for a retail store with student accommodation above. This included 97 parking spaces to serve the development and 14 parking spaces to serve the student accommodation, plus an additional 12 spaces which were to be transferred to the innovation centre development. The plans for this site however appear to overlap those submitted for the retail and student accommodation proposals, resulting in the double counting of parking spaces. Either these are to serve the innovation centre or the retail/student accommodation and not both.

As this site is a local centre, the out of centre guidelines for parking standards can be relaxed. A 15% reduction would be appropriate and therefore a ratio of 1 space per 34.5sqm would apply. The gross floor space of the building is 3834sqm and therefore 111 parking spaces would be required. The submitted application form suggests that 97 spaces are provided, however the overlap of parking spaces with those of application reference P/2016/0411 suggests that approximately 30-40 spaces will not be available for both application sites. This point will need to be clarified. Electrical charging points will also need to be provided, a minimum of two points are suggested. In terms of cycle parking, 1 cycle space per 2 employees should be provided, currently 24 spaces are provided. This is not sufficient, the policy guidelines require 80 covered and secure spaces to be provided. Confirmation has been requested regarding how deliveries will be dealt with.

A condition is recommended requiring the submission of a travel plan. Any Travel Plan will need to demonstrate a 30% modal shift and SMART targets. There may be opportunities for shared parking facilities but this would need to be secured through condition and monitored through a Parking Management Plan/Strategy.

A transport assessment is required to assess the proposed access.

Urban Design Consultant: The strategic design approach adopted for this site is supported. Section AA, BB and CC do not describe how the external levels are resolved. The hard landscaping scheme reveals a combination of retaining walls and sloping planting beds, this is an acceptable solution given the constraints. The argument put forward that this building should be seen as a flagship building amongst others that make up the local centre is accepted and although it will have a bold presence the dominance is helpful for this important employment use. The

restrained palette of materials is supported, some disappointment that opportunities to make the building more locally distinct have not been taken.

Senior Environmental Health Officer: Comments awaited.

RSPB: The application has been submitted for determination without full information on the current ecological value of the site. Recommendations of the Preliminary Ecological Appraisal are supported for further survey work. The application should not be determined until the results of this survey work and any related mitigation proposals are available to form part of the application. The site supports a small but species rich area of semi improved grassland, categorised as lowland meadow in the PEAA financial contribution from the developer for biodiversity offsetting for the loss of this and other habitats of wildlife value on site is recommended. The site is likely to be too small to support a breeding territory, it does appear to have some suitable habitat and therefore foraging curlew cannot be ruled out. There are no proposals for biodiversity enhancements, it is recommended that at least 10 integral nest sites for swifts are incorporated into the construction. There is also potential for biodiversity enhancement via the provision of a green roof or green wall as well as revisions to the planting scheme to prioritise native and non-invasive non-native plants which provide opportunities for wildlife.

South West Water: No objection. No development shall be permitted within three metres of the sewer and ground cover should not be substantially altered.

Wales and Waste Utilities: Wales and West Utilities have pipes in the area and their apparatus may be affected and at risk during construction works.

Arboricultural Officer: The scheme is suitable for approval on arboricultural merit however further dialogue on the landscaping plan is required in relation to species variation and plant numbers. Further detail of tree pit design per tree size, nursery stock size, staking method, prescribed watering volumes etc.

Drainage Engineer: Hydraulic design for the surface water drainage design is required prior to determination. The proposed drainage strategy must comply with the previously agreed White Rock Development Water Drainage Strategy together with the requirements of the Torbay Critical Drainage Area.

Environment Agency: The Environment Agency's Standing Advice and Lead Local Flood Authority should be consulted.

Natural England: No comments. Natural England have not assessed the application for its effects on protected species and have referred the Council to their Standing Advice. Reference is made to SSSI Impact Risk Zones.

Police Designing Out Crime Officer: Recommendations are made in relation to

access and movement, structure, surveillance (including natural surveillance of the external seating area, bin store and substation, use of monitored CCTV, avoidance of concealed and recessed areas and careful use of landscaping), ownership and physical protection (well-designed security features), activity (safe storage of materials, choice of surface materials) and management and maintenance (anti-graffiti finishes). It is also recommended that the car park is designed and constructed to the standards and specifications of the Safer Parking - Park Mark aware scheme.

Ecological Consultant: A bat survey should be completed and submitted to inform the design and detailed mitigation strategy. A breeding bird survey should be carried out to identify if Cirl Buntings are using the site. A reptile survey should be undertaken to identify slow worm populations and inform mitigation. The removal and loss of 0.206ha of species rich semi-improved neutral grassland should be mitigated and compensated for and biodiversity offsetting implemented. An ecological constraints and opportunities plan should be submitted once the detailed design is agreed. A LEMP, sensitive lighting plan and method statement for the removal of grassland should be submitted by condition.

Summary Of Representations:

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

- o The application will remove an eyesore
- o Application will support economic growth and provide quality economic space
- o No more building works are required in this area
- o Traffic and access
- o Overdevelopment.

Relevant Planning History:

P/2012/0706 Development Of Innovation Centre Phase 3 for Torbay (IC3) (Use Class B1) APPROVED 30.08.2012

The site falls within the area covered by the wider White Rock scheme approved under P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

Planning History for the remainder of the White Rock site:

P/2013/1009 Reserved matters application for P/2011/0197 including appearance, landscaping, layout and scale of 2 industrial units, enabling work for new road, demolition of unit 31, relocation of 10 parking spaces for unit 33-34 APPROVED 16.10.2013

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 REFUSED

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development - EIA NOT REQUIRED

P/2015/1126 Approval of appearance, landscaping, layout and scale in relation to 216 dwellings and associated development REFUSED 13.04.2016

P/2016/0094 Erection of 42 dwellings and associated infrastructure REFUSED 24.08.2016

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park APPROVED

P/2016/411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) APPROVED

P/2016/0842 EIA Screening in relation to one industrial unit of 6,000 sqm floorspace - EIA NOT REQUIRED

P/2016/0880 Erection of Class B2 industrial building of 6,000 sqm floor space to include parking, external lighting, hardstanding and circulation space APPROVED

Key Issues/Material Considerations:

The key issues to consider are the principle of the proposed development, the impact on the character and appearance of the area, the impact on neighbouring amenity, access and parking, trees and landscaping, biodiversity and drainage.

Principle of the Proposed Development:

The site is identified within the Torbay Local Plan (SDP3.5) as a committed

strategic mixed use employment/housing development that will provide 8.5ha of employment land, around 1,200 jobs and around 350 dwellings largely over the first half of the Plan period. Whilst this proposal is a new full application the previous planning history on this site remains a material consideration. Outline consent has been granted for the mixed use development of the site and full consent was granted for an innovation centre in this location in 2012. The principle of development in this location was established by this application and the general position of the proposal is in accordance with the indicative layout agreed within both of these applications.

Policies SS4 and SS5 of the Torbay Local Plan 2012-2030 support the provision of new employment space and the improvement of existing employment space in West Paignton. Similarly policies SS2 and SDP3.5 support the creation of a range of employment opportunities in this area. Consistent with this, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criteria 9 specifically refers to contributing to the success of the local labour market by improving provision of and access to jobs and widening the pool of available labour.

Consequently, the principle of the proposed development is acceptable and compliant with local plan policy.

Character and Appearance of the Proposed Development:

Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition paragraph 64 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criteria 3 refers to development that helps to develop a sense of place and local identity and criteria 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location. Explanatory paragraph 4.5.27 states that sustainable communities are places where people want to live, work and relax. It continues by stating that sustainable communities are those that meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to a high quality of life, they are safe and well planned, built and run. Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a

distinctive and sensitive palette of materials and whether they positively enhance the built environment.

The Design and Access Statement submitted as part of outline application reference P/2011/0197 which established the principle of this development in 2013 set specific design parameters for development in this location based on an assessment of the site context. This stated that the Brixham Road corridor is poorly defined for much of its length and that previous developments have not addressed the importance of this corridor and have, for much of its length, avoided any positive frontage on to this route. The outline application aimed to create a positive principal frontage to the Brixham Road with a scale of development (3-4 storeys) that helps to define the corridor.

Whilst this proposal is not bound by this outline permission, the proposed innovation centre building continues to reflect the principles set out as part of the approved outline consent. The location and height of the development reflects the parameters of the outline application with 4 to 4.5 storeys fronting on to Brixham Road which were identified as principle frontages within the outline design and access statement. The material choices and architectural details help to break up the mass of the overall building. The material choices appear to be of good quality and this can be secured through the imposition of conditions requiring the submission of materials and large scale details for approval. In line with the comments from the Council's Urban Design Consultant, the strategic design approach for this site is supported. The proposals are considered to comply with Policy DE1 of the Torbay Local Plan 2012-2030.

Impact on the Wider Landscape and Biodiversity:

Whilst this proposal is not bound by the outline permission, off-site landscape mitigation and enhancement works secured by this permission and including significant belts of woodland planting on land to the south of the White Rock site will provide a strong landscape buffer between the development and undeveloped countryside to the south. The proposed development is separated from the wider countryside by the residential development approved under references P/2014/0071 and P/2013/1229. In light of the structural planting proposed to the south which will act to contain the site once established, the proposals are not considered to result in significantly greater impact in views from the AONB to the south or views from the South Hams.

The tree report submitted in support of the application states that the proposals will result in the loss of 8 of unprotected trees. In terms of on-site landscaping there are 19 trees proposed within the proposed layout. Policy C4 of the Torbay Local Plan states that proposals for new trees will be a specific requirement of proposals in Strategic Delivery Areas and Policy DE1 states that proposals will be assessed against their ability to meet certain design considerations, with one identified as being the provision of high quality soft landscaping.

In line with comments from the Arboricultural Officer, the trees on site are of poor quality and the principle of their removal was established by the approved outline application P/2011/0197. The submitted landscaping scheme proposed species of limited longevity, only localised aesthetic value and that are inappropriate for planting in an engineered environment such as that proposed. Species variation is required to a type that is of greater value to the site user and the wider landscape with a larger final canopy size and planted size. Further information is required, particularly in terms of tree pit design per size, prescribed watering, staking method, replacement of losses, tree nursery stock type and specification of soil etc.

A revised landscaping scheme has been requested from the applicant. Subject to this being acceptable and the imposition of a condition requiring the implementation of an acceptable landscaping scheme, the proposed landscaping is considered acceptable and consistent with local plan Policies DE1 and C4.

The proposed development site falls within a greater horseshoe bat sustenance zone associated with the SAC roost at Berry Head. Sustenance zones are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. The permanent loss of existing or potential habitat within the sustenance zone and in proximity to the Berry Head roost has the scope to adversely affect the favourable conservation status of the Berry Head maternity colony. Paragraph 118 of the National Planning Policy Framework (NPPF) states that in terms of biodiversity, if significant harm resulting from a development within a SAC cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused. It is recognised that the development needs to be screened in terms of the Habitat Regulations Assessment, which has to be carried out prior to the decision being issued. Natural England has stated that they have no comments to make on the application. The application site is located approximately 7km from all the designated SAC component parts, the proposal is unlikely to affect any statutorily protected sites or landscapes.

Policy NC1 of the Torbay Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. The policy continues to state that development should not result in the loss or deterioration of irreplaceable habitats or wildlife corridors. Where development in sensitive locations cannot be located elsewhere, the biodiversity and geodiversity of areas will be conserved and enhanced through planning conditions or obligations. It also notes that all developments should positively incorporate and promote biodiversity features.

The ecological surveys submitted state that no evidence of badger setts or other field signs were found during the survey and the species appears to be absent from the immediate locality. No further work with regard to badgers has been

recommended by the applicant's ecologists. The submitted ecological survey states that it is highly unlikely that the site supports breeding Cirl Bunting, as suitable habitat does not exist within it. The survey does however note that the remnant grassland within the site could support foraging cirl buntings and has therefore recommended an additional survey. It also notes that other common species of breeding bird are likely to utilise scrub and planted trees for nesting during the spring/summer period and therefore timing of vegetation clearance should be undertaken outside of bird nesting season. The survey notes that the site lies within the Devon Great Crested Newt consultation zone but there do not appear to be any ponds within 500m that could support this species, therefore no further surveys are recommended. The survey also states that the remnant meadow habitat may support reptiles such as slow worms and invertebrates such as great green bush crickets. A reptile survey to inform a mitigation strategy has been recommended. The survey notes that bat surveys have been carried out over the summer months to inform site design and mitigation. Biodiversity offsetting has been recommended by the surveys in light of the presence of a fairly species-rich NERC S41 priority habitat (lowland meadow) that would be lost to the development.

Comments from RSPB and the Council's Ecological Consultants, have requested that the additional surveys recommended within the submitted ecological appraisal be carried out and submitted. These have now been submitted and comments are awaited from the Council's Ecological Consultants. The Members will be verbally updated at the Committee. Conditions requiring the provision of nest boxes have been recommended by condition.

Access and Parking Provision:

Vehicular access to the site is via Waddeton Road, via Long Road but should application reference P/2016/0411 be implemented access could also be achieved from Waddeton Road via Whiterock Way. A new section of road is already in situ, enhancing Waddeton Road and including a roundabout with access in to the development site.

Whilst the application is not bound by the outline application reference P/2011/0197, the access to the site largely reflects that agreed at outline stage with access from Waddeton Road. A transport statement has been submitted with the application but in line with comments from the Council's Strategy and Project Officer, a transport assessment will be required in order to assess the impact of the development on the highway network and to ensure a safe access is achieved to the development. This along with confirmation of how deliveries and refuse collection will work has been sought from the applicant. The Members will be updated at the Committee meeting.

The proposal includes 97 parking spaces (including 5 designed for use by disabled persons) and 24 cycle spaces. The Local Plan states that, within local centres, a minimum requirement will be negotiated taking into account the impact of the use

and existing parking provision. There are no existing public parking spaces within the immediate vicinity, and on-street parking locally is already under pressure within the nearby housing estates. Policy TA3 in the Torbay Local Plan states that the Council will require appropriate provision of car, commercial vehicle 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 F. Appendix F states that in local centres, a minimum level of parking provision will be negotiated taking into account the impact of the use and existing parking provision.

Both the previous outline consent and the full consent for the innovation centre in this location remain material considerations. The 2012 approval for an innovation centre of 4,500sqm of gross internal floorspace, under application reference P/2012/0706 included only 44 car parking spaces and 26 covered cycle spaces, substantially less than proposed now serving a lesser area of gross internal floorspace. The previous outline consent (P/2011/0197) included a supporting Transport Statement which stated that the parking provision for the development would not exceed the maximum standards set out in the adopted Local Plan 1995-2011 (at the time of the outline consent). At the time of the outline consent, policy T25 of the Torbay Local Plan 1995-2011 stated that parking provision should be provided at a maximum level of 1 parking space per 30sqm of gross office floor space and therefore 108 spaces maximum. At the time of both of these approvals, within the Local Plan (1995-2011) there was no differentiation between out of centre and local centre proposals. The current Local Plan 2012-2030 however recognises this hierarchy defining local centres as areas of shops and similar uses generally serving only the immediate area. In line with this, they tend to be located within or adjacent to residential estates and accessible by a range of transport modes including walking, cycling and public transport. There is therefore a case for a lower level of parking provision than that required for out of centre retail proposals which are subject to a different standard.

This is also supported by Policy TA1 of the Torbay Local Plan 2012-2030 which states that developments should ensure that the use of cars is reduced wherever possible and that the most sustainable and environmentally acceptable modes of transport are promoted as integral parts of developments. In line with this it is not considered appropriate to provide an oversupply of parking such that it would encourage use of the private car when the location of this development is such that it should encourage access via walking, cycling and public transport predominantly. In addition, the provision of additional parking spaces on this site, would limit the ability of the site to accommodate much-needed soft landscaping to the benefit of biodiversity and visual amenity, and would be at risk of appearing car-dominated.

In line with Policy TA3 and associated Appendix F, as this site is within a local centre, the out of centre guidelines for parking standards can be relaxed. The Council's Senior Strategy and Project Officer has suggested that a 15% reduction would be appropriate and therefore a ratio of 1 space per 34.5sqm would apply.

The gross floor space of the building is 3834sqm which would equate to 111 parking spaces. Whilst this would represent a slight shortfall in spaces, due to the nature of the building which is not necessarily open to the public, greater potential exists to encourage the use of sustainable transport, car sharing and car clubs. Opportunities for shared parking with nearby uses may also be possible. The submitted draft travel plan also notes the potential for these options to be encouraged.

Whilst additional parking on site would be beneficial, the Local Plan policy does not state a specific requirement but notes that a minimum will be negotiated. As above the previous approvals on the site, one of which represents a significant shortfall from current guidelines, are material considerations. Having considered this and in light of the availability of sustainable transport methods, commitment of the applicants to provide a robust travel plan, the desire to prevent a car-dominated development which is softened by landscaping and the economic benefits of the development in terms of employment generation, on balance, the proposed number of parking spaces is considered acceptable.

The provision of electrical charging spaces and a travel plan which set out how at least 30% of the potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review has been requested by condition.

In terms of cycle provision, the proposed plans indicate that 24 cycle spaces are proposed. The design of these are not clear, but in line with Appendix F, these should be secure and covered. This provision would be below the recommended standards as set out in appendix F of the Local Plan. Policy guidelines suggest that 80 cycle spaces are required. This point has been raised with the applicant and comments on these requirements are expected. The Members will be updated at the Committee meeting.

Neighbouring Amenity:

The proposals are to be sited to the north of the approved residential development (P/2013/1229 and P/2014/0071) and are separated by a plot of land indicated for a retail store and student accommodation as per application reference P/2016/0411. The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown as part of the outline application P/2011/0197. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution. The proposed building is positioned some distance from residential dwellings and is

separated by White Rock Way and Brixham Road. The proposals are not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing due to the separating distances involved.

The site sits to the south of the Premier Inn site and the submitted plans suggest that the expansion of the existing hotel may be proposed. If this occurs, the buildings will be positioned alongside each other in fairly close proximity. Whilst there may be some shadowing of the site to the north and potential to impact upon outlook of any south facing rooms as a result of the application, open aspects to east and west will still be achievable and as such on balance the impact on the amenity of the existing hotel site, should they choose to expand, is not considered to warrant the refusal of the application.

In terms of noise, the building will include some plant and extraction units. Comments are awaited from the Council's Environmental Health Officer, but conditions are recommended requiring details of any proposed extraction and ventilation to serve the building.

Subject to the inclusion of conditions, the proposals are considered acceptable in terms of residential amenity.

Drainage:

The application site is within the Critical Drainage Area as designated by the Environment Agency. Policy ER2 requires all development to seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will firstly discharge to an adequate infiltration system, a main river or watercourse, a surface water sewer or highway drain or as a last resort a combined foul sewer where discharge is controlled to be at a greenfield discharge rate. The submitted drainage strategy is in accordance with the previously approved (under outline reference P/2011/0197) and implemented surface water strategy. The Council's Drainage Engineer has requested further details in order to confirm that the discharge rate complies with the original Whiterock drainage strategy, including hydraulic design and that there is no risk of flooding to other properties. This information has been requested from the applicant and the Members will be updated on this point at the Committee meeting.

Other Issues:

Policy SC1 of the Torbay Local Plan states that all developments creating over 1,000sqm of floorspace will be required to undertake a screening for a Health Impact Assessment and a full Health Impact Assessment if necessary, proportionate to the development proposed and to demonstrate how they maximise positive impacts on health and healthy living within the development and adjoining areas. A screening has been submitted and a further assessment is not considered necessary.

Human Rights and Equalities Issues:

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance

Equalities Act: In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations:

The proposal would result in the provision of employment space which would benefit the local economy as a result of providing 155.9 jobs in the first year of operation followed by a subsequent 65.1 high skilled FTEs during the first 10 years of occupation and contributing an additional £10.52 million GVA per year to the local economy. It is estimated that as a result of the proposed development it will contribute an additional £114,391,309 net GVA towards the local economy over a 10 year period. 82.4 construction jobs are estimated as a result of the construction phase with a value of £7.7-8 million. The gross impact of the construction phase including wage income, corporate profit generated in the construction sector, spend on non-labour inputs, increase in output and income in the associated supply chain and increase in household income as a result of increased employment in construction is projected at £21.87 million.

S106/CIL:**S106:**

This development is not liable to S106 contributions in accordance with Policy SS7 and the Planning Contribution and Affordable Housing SPD. The SPD states that developments in Torbay will be assessed to identify where they generate net additional trips and therefore contribute towards sustainable transport. Table 4.3 of the SPD indicates Sustainable Transport contributions will be sought at a rate of £1,300 per 100sqm for B class employment but that mitigation will usually be provided for job creation/regeneration. In this case (without any mitigation) this would amount to £49,842 towards sustainable transport. Paragraph 3.17.5 of the SPD states that the cost of providing jobs is £8,000 per full time equivalent (FTE), as the development would create 155.9 full time jobs the mitigation would far exceed the sustainable transport contribution. Therefore nil contribution is

required from this development for sustainable transport.

Biodiversity offsetting is referred to in consultation responses from RSPB and the Council's Ecological Consultants. This is also referred to within the SPD. For small developments that involve a loss of local habitat, a contribution of £25 per sqm will be sought. For larger developments, contributions will be determined on a case by case basis. This will be given further consideration following the consideration of the recently submitted ecological reports. As a guide and based on the contributions required for small developments, the contribution amount would be £51,500 based on 2060sqm of species rich semi improved neutral grassland. This contribution would mitigate a site specific impact and is therefore a site deliverability matter which must be secured prior to determination and paid prior to the commencement of the development.

CIL:

There is no CIL liability in Torbay for this type of development.

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.
Date: 23.08.2017

Proactive Working:

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Conclusions:

Employment uses in this location are supported by local policies where employment growth and jobs provision is required to complement house building in the locality. There is strong planning policy support for the proposed employment use which is recognised as being important to delivering the Local Plan's growth strategy.

The siting, size and design of the proposed building would be appropriate in this location and would enhance the townscape of the area.

A number of issues are outstanding. These are currently being considered further by the applicant and further information is expected to resolve these issues. Subject to the submission of revised plans to show the additional cycle parking and a revised landscaping scheme, consideration of the submitted ecological surveys and resolution of the mitigation measures required, clarification regarding deliveries and refuse collection, the submission revised drainage information and

imposition of conditions, the submission of a transport assessment, the proposals are considered to accord with the provisions of the Torbay Local Plan 2012-2030, specifically Policies SS4, SS5, SS8, SS11, DE1, DE3, TA1, TA2, TA3, NC1, C4, ER1, ER2 and appendix F of the Torbay Local Plan 2012-2030.

Relevant Policies

- SS4 - The economy and employment
- SS5 - Employment space
- SS7 - Infrastructure, phasing and employment
- SS8 - Natural Environment
- SS11 - Sustainable Communities Strategy
- DE1 - Design
- DE3 - Development Amenity
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 - Parking requirements
- NC1LFS - Biodiversity and Geodiversity
- C4 - Trees, hedgerows and natural landscape
- ER1 - Flood Risk
- ER2 - Water Management