

Application Number

P/2012/1124

Site Address250 Babbacombe Road
Torquay
Devon
TQ1 3TA**Case Officer**

Matt Diamond

Ward

Wellswood

Description

Variation of Condition 3 to enable deliveries to take place between 7am and 11 pm on Mondays-Saturdays and 8am to 6pm on Sundays and Bank Holidays and the removal of Condition 5 pursuant to planning permission reference 83.353 allowing the sale of all goods within Use Class A1, thereby allowing the premises to be used as a supermarket.

Executive Summary/Key Outcomes

The application is to vary Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays (as amended), and removal of Condition 5 of planning permission ref. 83.353 to allow all uses in Use Class A1, thereby allowing the premises to be used as a supermarket.

The site is in an out of centre location being 520m distance away from the nearest Local Centre at Babbacombe. For retail, edge of centre is defined in the National Planning Policy Framework (NPPF) as a location that is well connected and up to 300 metres of the primary shopping area.

The current permitted delivery times are 8am to 6pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays. The variation of Condition 3 to allow earlier/late deliveries during the week and deliveries on Saturdays, Sundays and Bank Holidays is acceptable, and would not cause undue impact on the amenities of local residents.

The removal of Condition 5 to allow the premises to be used as a supermarket is not acceptable because it fails the sequential test required by Policy S6 of the Local Plan and paragraphs 24 and 27 of the NPPF, as there is a suitable alternative site available in the Town Centre on the Town Hall car park. In addition, it is likely to have a significant adverse impact on the current proposals to bring forward a supermarket on this site, contrary to paragraphs 26 and 27 of the NPPF. Furthermore, the proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, particularly Plainmoor, which is contrary to Policy S6 of the Local Plan and paragraphs 26 and 27 of the NPPF.

The material consideration of 225 jobs created must be balanced against the potential loss of jobs due to the impact of the proposals on centres in the area. Therefore, this is not considered to be sufficient reason to go against Policy S6 of the Local Plan or paragraphs 24, 26 and 27 of the NPPF. In addition, the proposal does not accord with

the Recommendations in the Council's supplementary guidance document 'Future Retail Development in Torbay – Clarification of Policy', which states the site is located in a gap area for major supermarkets, and this guidance document is considered to carry little weight now in any case as it was published before the NPPF, which is a more important material consideration.

The applicant has made no formal offer to provide mitigation for the impacts on local centres. In addition, no S106 Agreement has been prepared to secure necessary sustainable transport contributions, contrary to Policy CF6 of the Local Plan.

For the above reasons, the application should be refused.

Recommendation

Refusal for the following reasons:

1. The proposal fails the sequential test as there is a suitable site available in the Town Centre on the Town Hall car park. Therefore, the application is contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 24 and 27 of the NPPF. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration.
2. The proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site, contrary to paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to paragraphs 26 and 27 of the NPPF. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.
3. The proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to these policies. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.
4. No S106 Agreement has been prepared to secure necessary sustainable transport contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

Site Details

The site address is 250 Babbacombe Road, Torquay. The site area is 1.18ha. The site abounds a public footpath and woodland to the south, Walls Hill public open space to the east, an industrial works and scout hut to the northwest and Babbacombe Road to the southwest. The area beyond Babbacombe Road to the west is residential; there is also housing beyond the scout hut and industrial works to the northwest. The site is 520m from the edge of Babbacombe Local Centre, as defined in the Adopted Torbay Local Plan 1995-2011, to the northwest, measured from the site entrance along Babbacombe Road. In addition, the site is 910m from the edge of Wellswood Local Centre, as defined

in the Adopted Torbay Local Plan 1995-2011, to the south, measured from the site entrance along Babbacombe Road.

Babbacombe Road is a major road linking Torquay Town Centre, about 2km from the site along Babbacombe Road to the south, and St Marychurch District Centre, about 1.2km from the site along Babbacombe Road to the northwest. Babbacombe Road is a bus route and there are a number of bus stops within easy walking distance of the site.

There are numerous national and local designated areas on and around the site:

- Warberries/Walls Hill wildlife corridor passes through the site to the north
- Prehistoric field system at Walls Hill scheduled monument adjoins site along east boundary
- Area of Great Landscape Value (AGLV) adjoins site along east boundary
- Coastal Preservation Area (CPA) adjoins site along east boundary
- Hopes Nose to Walls Hill Site of Scientific Interest (SSSI) in close proximity to the site to the east
- Coastal Protection Zone (CPZ) in close proximity to the site to the east
- Asheldon Copse – Anstey Cove Road County Wildlife Site (CWS) in close proximity to the site to the south
- Palace Hotel (northern edge) Urban Landscape Protection Area (ULPA) in close proximity to the site to the south

The site comprises the former Focus DIY store in the southeast corner and associated car park to the north. The store is currently vacant. In addition, there is a garden centre in front of the store building, which is currently operating as a business. Vehicular access is provided via a two way access on Babbacombe Road.

Detailed Proposals

The proposal is to vary Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays (as amended), and removal of Condition 5 of planning permission ref. 83.353 to allow all uses in Use Class A1, thereby allowing the premises to be used as a supermarket.

This application amends the existing planning permission ref. 83.353 to allow the premises to be used as a supermarket. The proposed development to convert the building and site into a supermarket is subject of a separate planning application submitted alongside this one (ref. P/2012/1123/MPA).

Summary Of Consultation Responses

Some of the following responses have been re-produced at Page T.203.

Highways/Strategic Transportation: A logistics delivery plan on how the store will be serviced is required. This must state that St Marychurch and Hele Road would be avoided. This is essential for air quality issues and local congestion. It is incorrect of them to state that this proposal will not lead to an increase of HGV activity on the site, given the length of time that has lapsed since the DIY store closed, and this should be addressed by a sensitive, effective logistics plan.

Requested sustainable transport contributions of £40,000.00 for provision of a cycle link

southbound on Babbacombe Road, £6,500.00 for a new bus shelter northbound on Babbacombe Road and £35,000.00 towards highway safety improvements at the Babbacombe Road/St Anne's Road junction.

Supports Travel Plan in appendices of Transport Assessment. Failure to implement Travel Plan would lead to the need to consider parking restrictions on Babbacombe Road. As the store will be popular, it is likely there will be an initial surge in use which may cause some disruption on and off the road, but this will likely settle down shortly and find a natural balance as has occurred at Asda on Newton Road.

Highways raise no objection in principle regarding the site junction and visibility issues, and have not commented upon any issues with the operation of the existing junction at Perinville Road.

Community Safety: No objection to delivery times on Sundays and Bank Holidays. However, proposed delivery times from 6am to midnight on Mondays to Saturdays could potentially have an impact on local residents by way of noise; therefore, recommend deliveries are restricted to between 7am to 11 pm Monday to Saturday, to reduce likelihood of causing a nuisance to local residents.

(The application was subsequently amended in line with these comments.)

Refuse Collection & Disposal: No response.

Torbay Local Access Forum: Stated no comments.

Torbay Development Agency: Objected stating 13 grounds of objection. These relate to the principle of allowing the building to be used as a supermarket. Fails the sequential test of town centre first - there are emerging proposals for a viable store on a suitable and available site in the town centre; therefore, the application is not sequentially sound. The entire available convenience capacity identified by GVA would be required by the emerging proposal in the town centre. The RIA submitted with the application is fundamentally flawed: the sequential analysis is flawed and it does not adequately address the impact of the application on the emerging scheme on the Town Hall car park. Will do nothing to strengthen the town centre convenience offer.

Torbay Coast and Countryside Trust: No response.

South West Water: No objection or comment.

Environment Agency: Stated it has no comments to make.

Engineering/Drainage: No objections.

Natural England: Not likely to have an adverse effect on SSSI.

Building Control: Internal material alterations will require Building Regulation consent.

Summary Of Representations

Due to the close relationship between planning applications P/2012/1123/MPA and

P/2012/1124/VC, the summary of representation is reported for both applications together and these have been re-produced and placed in the Members Room.

121 representations were received supporting the proposals and 35 objecting. Of the representations supporting the proposals, 113 were signed proforma letters drafted by the applicant's communications consultants.

The following were some of the issues raised in support of the applications:

- Building in need of regeneration
- Would improve appearance of building
- Would provide jobs for the area
- Would provide more choice and value
- Unlikely to harm shops in Wellswood or Babbacombe
- Would limit the outflow to The Willows
- Within walking distance of many residents

The following were some of the issues raised objecting to the applications:

- Not in keeping with local area
- Poor design – standard looking with slightly wavy roof
- Impact of traffic, including HGVs, on local highways
- Noise and vibrations from deliveries
- Already enough supermarkets in Torbay and local area
- Impact on shops in local/district centres
- Against Torbay Retail Study (2010/2011)
- Site suitable for housing, which is in more need
- Inappropriate for residential area
- Impact on wildlife corridor
- Staff parking on surrounding streets
- Light pollution
- Community Partnership not consulted
- Loss of garden centre
- Inadequate car parking for size of store
- Safety of pedestrians crossing road
- New roof profile over entrance would detract from view towards and from Walls Hill Downs

Relevant Planning History

83.353: Erection of D.I.Y. Home and Garden Centre, with ancillary parking and service areas, Walls Hill Quarry, Babbacombe Road, Torquay: Approved 23.09.1983

83.2843: Erection of greenhouse Extension, Walls Hill Quarry, 250 Babbacombe Road, Torquay: Approved 17/02.1984

ZP/2008/0267: Extensions To Site And Use As A Supermarket (pre-application enquiry): Approve 01.04.2008

ZP/2011/0698: Change of use and refurbishment of existing vacant unit to provide a

food store of approx 3,500sqm with 175 car parking spaces (pre-application enquiry): Pending Consideration

P/2012/1123: Alterations to the building associated with its conversion to a supermarket and extension to the internal mezzanine floor by 282 sqm for ancillary plant and offices [non sales area]; together with new hard and soft landscaping, car park layout and site access arrangements (following demolition of greenhouse extensions, 297 sqm.: Pending Consideration

Key Issues/Material Considerations

The key issues are:

1. Principle of the relaxation of use to allow the premises to be used as a supermarket
2. Impact of the relaxation of use on local highways
3. Impact of deliveries on amenities of the area

1. Planning legislation requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The Adopted Torbay Local Plan 1995-2011 is the development plan for Torbay and Policy S6 states that retail development on sites outside existing or proposed shopping centres will only be permitted where:

- There is a need for the new floorspace and this need cannot reasonably be met in a nearby town, district or local centre, either in its entirety or its constituent parts
- A sequential approach has been followed in selecting the location for the proposed development, i.e. centre first, then edge of centre and only as a third preference sites outside any existing or proposed shopping centre
- The development would not individually or cumulatively harm the vitality and viability of any shopping centre within the intended catchment area of the proposed store
- The site is accessible from residential areas, well served by public transport with good access to a major distributor road and would not reduce road safety or detract from the function of the routes
- If the site is in employment use or allocated for such use, the proposal would have significant adverse impact effect on employment opportunities

In terms of the sequential test, the site is out of centre being 520m away from the nearest local centre at Babbacombe. For retail, edge of centre is defined in the National Planning Policy Framework (NPPF) as a location that is well connected and up to 300 metres of the primary shopping area.

In March 2012, the Government's National Planning Policy Framework (NPPF) was published providing national planning guidance to local authorities. It reiterates that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (Para 11). It states the importance of local planning authorities having an up-to-date plan (Para 12) and that the NPPF constitutes guidance for local planning authorities both in drawing up plans and as a material consideration in determining applications (Para 13).

Section 2 of the NPPF deals with town centres and it states that local planning authorities should apply a sequential test to planning applications for main town centre uses – such as the proposal – that are not in an existing centre and are not in

accordance with an up-to-date Local Plan (Para 24). It states that local planning authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre site be considered.

In addition, it states that when assessing applications for retail outside town centres, local planning authorities should require an impact assessment of:

- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes – such as this - where the full impact will not be realised in five years, the impact should also be assessed up to 10 years from the time the application is made. (Para 26)

The NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused (Para 27).

As the Local Plan was published before the NPPF, the NPPF's policies are an important material consideration for the application.

Torbay Development Agency (TDA) has stated that there are emerging proposals for a viable store on a suitable and available site in Torquay Town Centre on the Town Hall car park. Therefore, the application fails the sequential test required in Policy S6 of the Local Plan and paragraph 24 of the NPPF. On this basis the application should be refused.

In its sequential assessment of alternative sites in the Retail Impact Assessment (RIA) submitted with the application, the applicant argues that the retail needs for a new store are immediate and it may be some time before the Town Hall car park site is developed; therefore, the site is not available at this time. This is considered to be a weak argument, as the site is clearly available following the comments from the TDA. The applicant also argues that the Town Hall car park site isn't suitable because there is insufficient space to develop a supermarket capable of meeting main food shopping needs, and there are physical problems with the site, such as the need to replace the same amount of car parking on the site with a new store. However, the RIA goes on to state that this is not insurmountable and the TDA states it is satisfied the site is suitable. Therefore, it is not considered that the Town Hall car park site is unsuitable at this time and this would only become apparent as the project develops. Lastly, the applicant argues that developing a store on the Town Hall car park site would be commercially challenging to deliver in the short term, as it would need to meet a number of policy tests, in particular the relative high cost of providing sufficient car parking to meet both the needs of retailers and the replacement of existing spaces. However, the TDA states that the emerging proposals are viable and it has received a positive financial offer for the Town Hall car park site.

A material consideration is the Council's supplementary guidance document entitled 'Future Retail Development in Torbay – Clarification of Policy', which was adopted in March 2010. This identifies gap areas in retail provision across Torbay and the site is located in a gap area for major supermarkets. Recommendation 1 of the supplementary

guide states that new retail developments should be located within the existing shopping areas of the Town, District and Local Centres (including where appropriate new Centres within identified gap areas in retail provision) and not in 'out of centre' locations. Recommendation 13 states that to meet the needs of the gap area in which the site is located, Lisburne Square should be designated as a Small Local Centre. It also states that potential sites should be sought for the provision of additional new centres, including a possible new Large Local Centre or District Centre, which could include a small main food supermarket subject to Recommendations 3 and 6. Recommendation 3 states that the southern side of Union Street site should form the priority for any future retail strategy in Torquay Town Centre, and, where necessary, a restrictive approach should be taken to development elsewhere that could impede its delivery. Recommendation 6 is to increase the 'main food' retail provision within Torquay Town Centre by providing for a new food store as part of the Southern side of Union Street site or if not deliverable, the Town Hall car park.

The proposal does not accord with Recommendation 1 because whilst the site is located in a gap area for major supermarkets, it is not within a new Centre or a proposed new Centre. Furthermore, the recommendation states that new retail development should not be located in out-of-centre locations. In addition, the proposal does not accord with Recommendation 13 because even if the site was considered a potential site for a new centre, it would not accord with Recommendations 3 and 6, as it could impede delivery of retail development on the southern side of Union Street site and provision of a new food store in the Town Centre, including the Town Hall car park.

Notwithstanding the above, the 'Future Retail Development in Torbay – Clarification of Policy' supplementary guidance document carries little weight now because it was published before the NPPF, which is a more important material consideration in determining the application.

In terms of the impact of the proposal, the TDA has commented that the RIA does not adequately address the impact of the application on the emerging scheme on the Town Hall car park site. This scheme could enhance Torquay Town Centre from linked trips, helping to reverse leakage of spend on comparison goods. In addition, the entire available convenience capacity identified by GVA in the Torbay Retail Study Update 2011 would be required by the emerging proposal in the Town Centre (3,500 sq m nett by 2016, or 2,000 sq m nett if a new supermarket is provided in Brixham Town Centre). The applicant states in the RIA that there is 'room' for both stores in the market place. Even if this statement was true, it is considered that the priority should be to deliver a new store in the Town Centre first, then if there is still capacity for a second store and there are no more sequentially preferable sites an application for a store on the proposed development site might be looked upon by the Local Planning Authority more favourably. However, at this time the application should be refused in accordance with paragraphs 26 and 27 of the NPPF because it is considered likely that it would have a significant adverse impact on the delivery of a store on the Town Hall car park site if it is developed first.

In terms of the impact of the proposal on the Town Centre, District Centres and Local Centres, the applicant states in the RIA that the proposed store would have a total turnover of £21,600,000.00 (£19.5m convenience and £2.1m comparison). This would be drawn from existing expenditure at other locations and this impact is shown in Table 3 of Appendix 1 of the RIA. Despite the table showing that there would be a -19.5% (£-

7.1m) loss of turnover at Sainsbury's and Marks & Spencer at The Willows at 2016, which the RIA states is overtrading by around £10m, the table also shows that at 2016 there would be the following additional losses of turnover:

- 5.1% (£-0.8m) in Torquay Town Centre
- 10.2% (£-0.8m) in Plainmoor Local Centre
- 4.6% (£-0.4m) in St Marychurch District Centre
- 5.1% (£-0.2m) in Babbacombe Local Centre
- 9.6% (£-2.0m) in other local shopping facilities in Torquay (excluding Babbacombe and Plainmoor)

It is noted that the applicant has committed to provide 80% of the net retail floorspace for convenience goods and 20% for comparison, which is less than typical for modern supermarkets and would therefore have less impact on comparison retailers in the area. However, the above impacts are still considered significant and therefore likely to harm the vitality and viability of these centres. The applicant argues that there would be limited impact to Torquay Town Centre, as the impact would be spread between stores. This would also be the case for St Marychurch District Centre and here, like Babbacombe Local Centre, the trade diversion would mainly relate to top up shopping and the proposed store would be complimentary rather than in competition with the existing top up stores. This is considered to be a woolly argument and is not the case for Plainmoor Local Centre in any case, as the main impact here would be to the Waitrose major food store. The applicant argues that Waitrose has a wider catchment and perceived different offer than other major food retailers; therefore the impact of the proposal would be minimal. Again, this is considered to be a rather woolly argument given the scale of the impacts above and also risky to the health of Plainmoor Local Centre, as Waitrose is an anchor store for the centre and therefore very important to its vitality and viability.

The applicant also presents the impact of the proposal in combination with a new store on the Town Hall car park site in Table 4 of Appendix 1 of the RIA. Despite showing significant impacts on the centres above, this table isn't considered relevant as the application is for a single store and this approach doesn't follow the sequential test.

Whilst there have been many letters of support and objection to the application, it should be noted that the Traders of Babbacombe, Wellswood and St Marychurch group has objected, although some traders support. In addition, the applicant has made no formal offer to mitigate the impacts on local centres. Therefore, in consideration of the above, the proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, and should be refused in accordance with Policy S6 of the Local Plan and paragraphs 26 and 27 of the NPPF.

A material consideration is the employment creation of the proposal (225 jobs – 75 full-time and 150 part-time). However, given the issues above, this needs to be weighed against the potential loss of employment at existing stores in the area, as a result of loss of turnover. Therefore, this is not considered to be a sufficient material consideration to approve the application against the policies of the Local Plan and NPPF. Likewise, the fact the proposal would bring a part vacant brownfield site back into use is not considered to be a sufficient material consideration to approve the application against these policies.

2. The relaxation of the use of the building to allow the premises to be used as a

supermarket would lead to more traffic travelling to and from the site, which might impact on local highways. Despite this being raised as a concern in a number of representations, Highways/Strategic Transportation have raised no objections, subject to a Section 106 Agreement to secure contributions towards provision of a cycle link southbound on Babbacombe Road (£40,000.00), a bus shelter for the northbound direction (£6,500.00) and highway safety improvements at the Babbacombe Road/St Anne's Road junction (£35,000.00). Therefore, the proposal is acceptable in this regard, subject to completion of the S106.

3. The variation of Condition 3 of planning permission ref. 83.353 to allow deliveries to take place between the hours of 7am and 11pm on Mondays to Saturdays, and 8am and 6pm on Sundays and Bank Holidays may have an impact on the amenities of the area in terms of noise and disturbance to local residents. The current permitted delivery times are 8am to 6pm on Mondays to Fridays, and at no time on Saturdays, Sundays and Bank Holidays. However, Community Safety has no objections to the proposed delivery times. Therefore, they are considered acceptable.

S106/CIL -

A sustainable transport contribution of £81,500.00 is required for the following:

- Cycle link southbound on Babbacombe Road (£40,000.00)
- New bus shelter northbound on Babbacombe Road (£6,500.00)
- Highway safety improvements at the Babbacombe Road/St Anne's Road junction (£35,000.00)

If mitigation was offered for the impact of the proposal on local centres, this would also have to be secured in a S106 Agreement.

No S106 Agreement has been prepared for the application; therefore, it should be refused in accordance with Policy CF6 of the Local Plan.

Conclusions

In conclusion, whilst the proposed delivery times are acceptable, the proposal fails the sequential test as there is a suitable alternative site available in Torquay Town Centre for a store on the Town Hall car park that is currently emerging as a viable site to develop a supermarket on. In addition, the proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site and the vitality and viability of local centres, most significantly Plainmoor. Therefore, the application is contrary to Policy S6 of the Local Plan and paragraphs 24, 26 and 27 of the NPPF, and should be refused.

There are no material considerations to justify going against the above policies, including the location of the site in a gap area for major supermarkets identified in the supplementary guidance document 'Future Retail Development in Torbay – Clarification of Policy' and employment creation, as the proposal does not accord with the Recommendations of the former and this document is considered to have limited weight following the publication of the NPPF, and the impact of the proposal on local centres could lead to loss of employment elsewhere.

No S106 Agreement has been prepared to secure sustainable transport contributions; therefore, the application does not accord with Policy CF6 of the Local Plan.

Condition(s)/Reason(s)

01. The proposal fails the sequential test as there is a suitable site available in the Town Centre on the Town Hall car park. Therefore, the application is contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 24 and 27 of the NPPF. Furthermore, the applicant has not shown sufficient flexibility in relation to the site size and form such that appropriate alternatives have not been given due consideration.

02. The proposal is likely to have a significant adverse impact on the delivery of a store on the Town Hall car park site, contrary to paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to paragraphs 26 and 27 of the NPPF. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

03. The proposal is likely to have a significant adverse impact on the vitality and viability of centres in the area, contrary to Policy S6 of the Adopted Torbay Local Plan 1995-2011 and paragraphs 26 and 27 of the NPPF. The applicant has failed to prove that material considerations exist that warrant approval of the application proposal contrary to these policies. The Retail Impact Assessment submitted with the application is not considered fully up-to-date or robust.

04. No S106 Agreement has been prepared to secure necessary sustainable transport contributions in accordance with the Council's Planning Contributions and Affordable Housing SPD. The Local Planning Authority considers that it would be inappropriate to secure the required contributions by any method other than a legal agreement and therefore the proposal is contrary to Policy CF6 of the Adopted Torbay Local Plan 1995-2011 and paragraph 206 of the NPPF.

Relevant Policies

SS	Shopping strategy
S6	Retail development outside identified
S9	District Centres
S10	Local Centres
CF6	Community infrastructure contributions
NCS	Nature conservation strategy
NC2	Protected sites - nationally important site
NC3	Protected sites - locally important site
NC4	Wildlife Corridors
NC5	Protected species
EPS	Environmental protection strategy
EP3	Control of pollution
EP4	Noise
EP6	Derelict and under-used land
EP7	Contaminated land
T26	Access from development on to the highway