

**P/2011/0018/MPA**

**Berry Head With Furzeham Ward**

**Torbay Holiday Chalets, Fishcombe Road, Brixham**

**Formation of 40 self-catering units with associated leisure facilities**

### **Site Details**

The plot contains a long established holiday complex that sits in a relatively small and secluded site off Fishcombe Road, Brixham, which is sandwiched between the wooded areas of Battery Gardens and The Grove. The existing complex contains 30 holiday chalets arranged within curved terraces along with some ancillary buildings, which have northerly coastal outlooks over Fishcombe Cove.

The existing development is not only in general poor repair due to non-use over the past few years, but also more fundamentally displays quite poor architectural form, with an ad-hoc mix of pitched and flat roofed buildings. Towards the coast the buildings overlook an area of hardstanding and managed grassland, which in-turn gives way to a steeply sloping cliff face that continues to the northern site boundary where it meets the cove. The site itself has a direct corner access and the area as a whole is accessed via a winding road (Fishcombe Road) that leads from Northfields Lane and serves the small number of sites in the locality, including the beach access lane, the Brixham Holiday Park and the public footpath leading towards The Grove woodland.

In regard to planning designation the site sits immediately adjacent to the South Hams Area of Outstanding Natural Beauty (AONB) and is within the 5km buffer zone of the Berry Head SAC (Special Area of Conservation). In addition approximately half of the site (on the coastal side) sits under the local designations of Countryside Zone (CZ) and County Wildlife Site (CWS). It is also pertinent to acknowledge that the site sits adjacent to the Battery Gardens SAM (Scheduled Ancient Monument) and the Candidate Marine SAC.

### **Relevant Planning History**

P/2006/0838 - Six New Holiday Flats, New Clubhouse with managers flat above and guest facilities (In Outline) (Renewal Of Application P/2003/1221/OA) – Approved (previously considered and approved under 1993/0169, 1997/0975, 2000/0889 and 2003/1221).

### **Relevant Policies**

*Saved Torbay Local Plan 1995–2011:*

LS	Landscape Strategy
L1	Areas of Outstanding Natural beauty
L4	Countryside Zone
L10	Major development and landscaping
NCS	Nature conservation strategy
NC1	Protected sites – internationally important sites
NC3	Protected sites – locally important sites
NC5	Protected species
EPS	Environmental protection strategy
EP6	Derelict or under-used land
BES	Built environment strategy
BE1	Design of new development
BE2	Landscaping and design
TUS	Tourism strategy
TU3	New Tourist facilities elsewhere
TU5	New holiday accommodation
TU7	Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas
TU9	Refurbishment and development of new holiday centres or parks

TU10 Change of use or redevelopment of holiday centres and parks  
TS Land use transportation strategy  
T25 Car parking in new development; and  
T26 Access from development on to the highway  
CFS Sustainable communities strategy  
CF6 Community infrastructure contributions  
HS Housing strategy  
H2 New housing on unidentified sites  
H6 Affordable housing on unidentified sites  
H9 Layout, design and community aspects  
W7 Development and waste facilities

### **Proposals**

The proposal is a redevelopment scheme to clear the site of the current buildings in order to supply 40 self-catering units with associated leisure facilities. These facilities are to include a spa, restaurant, indoor and outdoor pools, and a 'natural' play area. The proposed units are a mix of one and two storey buildings that incorporate outdoor terraces and light glass-box detailing within the upper floor (in order to respond to the orientation and viewpoints).

The units are laid out in curved terraces with 'green' roofs, which layer down the site with the natural topography. The associated leisure facilities are set towards the east of the site close to the proposed entrance. The proposed access has been twice revised in order to respond to local concerns over highway safety and pedestrian movement to and from the beach access lane, and now sits in the same position as the current site access on the corner of the site.

On site parking is split between a small number of greeting spaces and groupings of spaces dotted amongst the upper areas of the development, which in total provides for 1:1 parking. In regard to landscaping the proposal shows the retention of a green fringe towards the coast, albeit reduced due to the extent of built footprint proposed. This is supplemented by green roofing and landscaping works within the built area, which is stated as providing an overall net gain of greenspace across the site over the existing arrangement.

The application includes aspirations to provide off-site enhancements by improving the access to The Grove woodland via America Lane. In addition, the coastal footpath is proposed to re-routed to provide a route seaward of the development that links more directly with Fishcombe Cove Beach.

It should be noted that the initial submission sought approval for 40 self-catering units of residential occupation without holiday restriction clauses. However the proposal returns to committee with instruction of acceptance towards conditioned planning approval that directly formalises the maintenance of holiday occupancy through appropriate conditions and legal clauses.

### **Consultations**

*Environment Agency:* No objection to the proposal subject to best practice being used for the disposal of surface water run-off.

*Natural England:* Considers that the proposal has the potential to adversely impact the natural beauty of the AONB and therefore request that due consideration is given to the comments submitted by the AONB Unit/Partnership.

It is also noted that the proposals put forward by EAD Ltd and Section 4 of the Ecological Impact Assessment (JAN 2011) should be conditioned as part of any potential permission by the Authority, in order to maintain the favourable conservation status of the South Hams SAC.

*The Authority's Conservation & Design Team:* No objections, the scheme has responded positively to the Design Review Panel comments.

*The Authority's Arboriculture Team:* No arboricultural constraints will exist to the proposed development given the recently approved tree work application, and therefore there are no objections to the application on arboricultural merit.

*The Authority's Highways Department:* Highways would raise no objection to the proposals shown in Drawing Number 3173-d-40, although it should be noted that the access to the site isn't directly onto the public highway and therefore permission to use the Beach access lane should be sought.

Strategically a Transport Statement has been submitted to the satisfaction of the Authority's Senior Transport Planner and the application also includes an outline staff and visitor Travel Plan. The sustainable transportation team have requested that a s106 contribution inline with current guidance is sought to improve walking and cycling in the area.

*South Hams AONB Unit:* The principle of redeveloping the site from its present derelict state is supported, as is the retention of a leisure / tourism use, and the Unit Manager welcomes the improved visual impact of the development. However, the level of development and the movement towards the coast runs contrary to basic principles. The concluding comment outlines that the scheme is not supported by the AONB office. It should be noted that should the Local Planning Authority be minded to approve the application conditions should be secured in respect to details of external works, securing genuine holiday use and the access is suitably explored.

Updated comments clarify that, the AONB office consider that they must object to the proposals due to the proposed development that encroaches closer to the coast than currently exist. However, the office accepts that there are landscape benefits to the scheme (such as the improved experience landward around the Grove and America Lane and the creation of a seaward coastal footpath route that provides improved linkage to Fishcombe Cove) and hence there is a balance that needs to be struck in regards to the positives and negatives of the scheme.

*English Heritage:* Advice received outlining that English Heritage do not wish to comment on the scheme.

*The Authority's Drainage Department:* The proposal decreases the amount of impermeable surface within the site and drains surface water to the surrounding fields, which currently happens. There is no objection to the development.

*Brixham Town Council:* Support the scheme.

## **Representations**

A number of representations both in support and opposing the scheme have been received. These have been re-produced and placed in the Members Room.

Broadly the letters in support raise the positive benefits of investment and regeneration, along with the removal of an existing eyesore and improvements to the coastal footpath route.

Objections appear to largely cite concerns in regards to the proposed access point part of the way down the beach access lane and the harm that could result from this upon pedestrians using the beach and the Brixham Battery Museum. Also raised is the more limited concern in regard to the positioning of the refuse/storage area near the museum and the impact of this in terms of odour and noise.

It should be noted that revised drawings have been submitted that show the access at its present location on the corner, which is a direct response to the number of highway concerns raised within public representation. It is hence important to note that none of the numerous highway related objections were a response to the present access scheme put forward.

## **Key Issues/Material Considerations**

With the removal of the aspiration for open residential use the key issues are the principle of the development, along with the implications on the local landscape and ecology, the impact upon the highway network, and the possible implications upon the amenity afforded to neighbouring sites/occupiers.

### ***The Principal of Development***

Following the retraction of the desire for an unrestricted residential approval the scheme is a redevelopment proposal that provides a modern holiday development that would replace a defunct and derelict collection of chalets and service buildings. As the scheme looks to maintain a holiday provision within this established coastal site the general principle of the development is considered acceptable.

### ***Visual Implications***

The proposal removes the unsightly semi-derelict buildings that currently scar the site and the wider area and AONB. The removal of the existing development is therefore clearly supported and this is reiterated by the South Hams AONB Team.

The proposal provides a radial pattern of development, which harks back to the historical development pattern on the site from the 1950s timber holiday chalets (as referred to and visually illustrated in the submitted Design and Access Statement). The terraced form seeks to utilise the natural drop in topography, minimising the apparent scale of the development when viewed from outside of the site (both from the sea and the land).

The architectural form seeks to provide clearly modern development which includes intelligent use of the internal/external space to make best use of the views and limited sun-path. The rhythm of buildings refers to the historical chalet use and the street enclosure and the provision of viewing steps down through the site takes its reference from the historic core of Brixham. The layout seeks to integrate parking within the development but restricted to the upper half, through a pedestrian-friendly Home Zone. All these components fuse to provide an interesting and positive scheme for the site which is considered to respond to the constraints and opportunities.

It should be noted that the proposal has been though the Torbay Design Review Panel and the current submission has positively responded to the comments that were outlined by the panel. A copy of the panel's comments to the previous scheme has been supplied within the Design & Access Statement with the application and a copy will be provided within the representations bundle for members.

The comments of the South Hams AONB Unit are mixed, outlining both perceived benefit and potential harm. On the one hand there is acceptance that the current development is harmful to the character and appearance of the adjacent AONB and that boundary improvement works and off site works to America Lane, along with the revised coastal footpath route, would improve the experience of the AONB. However, on the other hand it is iterated that development encroaching towards the coast in terms of the extended footprint is clearly not a philosophy that can be supported in principle.

Officers consider it important to have regard to the comments of the South Hams AONB Unit Manager, however, it this is one of a multitude of issues to consider. Officer consider, on balance, that given the positive enhancement set out in the overall design philosophy and given the investment opportunity and the intended leisure and tourist uses, the wider benefits of the scheme outweigh concerns related to the extension of the built footprint in this instance. This is provided that an appropriate agreement can be reached in relation to the control of the use of the site for holiday and leisure purposes.

The likely impact upon the adjacent Battery Gardens Scheduled Ancient Monument is negligible, due to the scale and form of development and the distance between the two sites. English Heritage has confirmed they do not wish to provide detailed comment on the proposal.

The key issues for members to consider in relation to design and visual impact are therefore:

1. The extent of built footprint on the site, which goes beyond the existing built footprint towards the coast,
2. the visual impact of the development from public vantage points, including Battery Gardens, the coast and coastal path and the land behind at Brixham Holiday Park and comparison between the impact of the existing built form, and;
3. the design approach in relation to the site itself and how this provides for the intended holiday / leisure use and responds to the unique setting.

### ***Ecological Implications***

As the site is largely covered by existing development, through buildings and hardstandings, there is limited flora and fauna of any value. However, a phase 1 Habitat Survey has however recorded evidence of slow worms and the Lesser Horseshoe Bat.

Natural England has not identified specific concern in regard to any particular issue, however, they have indicated that the mitigating measures identified within the submitted Ecological Impact Assessment should be conditioned as part of any planning approval. Deferring to this advice the proposal is considered acceptable in respect of the ecological implications and provided that these measures are controlled by condition it is considered that the development will not have a likely significant impact on the South Hams SAC so as to warrant a Habitats Regulations Assessment.

### ***Highway Issues***

The proposal provides a 1:1 parking ratio with the access amended to the corner adjacent to Beach lane. The Authority's Highways Department considers the proposals acceptable on highways grounds as the established use largely mitigates the implications of the redevelopment scheme of 40 units. There is therefore no stated objection on highways grounds, and officers consider that the revised site access has appropriately responded to the concerns raised by local neighbouring occupiers and interest groups.

### ***Amenity Issues***

The scale and form of the proposal, in conjunction with the orientation and distances to surrounding sites and buildings, provides a scheme that is likely to have little impact upon the amenity afforded to neighbouring occupiers and businesses. The proposal is therefore considered acceptable on amenity grounds.

### ***Planning Contributions***

With the proposal returning to committee as a scheme for holiday units (rather than the unrestricted residential scheme previously mooted) the level of planning contributions are outlined below. Please note that the sums are mitigated to take into account the existing use and number of units, along with the extant approval for six further units.

Sustainable Transport Contributions: £3440 (expected towards improvements to America Lane and the Grove), which is based on a net of four additional units (55-74m<sup>2</sup> floor area).

It is also considered appropriate to consider that a monitoring contribution should be sought, inline with adopted guidance, which amounts to £2600.

In addition to the above it is expected that the accompanying legal agreement will also include clauses to suitably manage and maintain the site for holiday use. These are likely to cover restricted leasehold arrangements for the holiday units, the maintenance of a visitors log for inspection, service charge arrangements and arrangements for the overarching management company. It is also expected that the desire to formalise a re-routed coastal path seaward of the development will be addressed via the legal agreement, in order to ensure it is brought forward and formalised as a public footpath.

### **Sustainability -**

The scheme will bring back to life a brownfield semi-derelict tourism site that sits within a sustainable location near to supporting holiday facilities and transport infrastructure. This is a sustainable location for the espoused leisure and tourism use, however it is considered pertinent to restrict the potential for the site to become permanent residential occupancy, which would not be a sustainable form of development without the provision of appropriate affordable housing and community infrastructure under s106 of the planning act.

### **Crime and Disorder -**

It is likely that an operational and managed site would increase activity and natural surveillance in and around the area and therefore reduce the likelihood of trespass or antisocial or unlawful behaviour which is more likely to take place on a semi-derelict site.

### **Disability Issues -**

The land is steeply sloping and it is not clear how the applicant intends to provide the necessary level platforms in order to meet with Part M of the Building Regulations. However, it is considered appropriate in any event to resolve this at the detailed design stage.

### **Conclusions**

The scheme provides an innovative redevelopment proposal of a brownfield site that is currently detrimental to the visual qualities of the area and does not contribute to the wider holiday package offered by Brixham. There is concern in relation to the footprint of the scheme, which extends beyond the existing built footprint, however the overall design approach is considered to be a significant enhancement over the existing built form. In addition there are wider net benefits from the scheme in addition to the improvement to the appearance of the site, these include the provision of leisure facilities, units designed for holiday occupancy and new employment opportunities.

The revised packaging of the scheme for restricted holiday occupancy overcomes previous concerns over the potential loss of a holiday park in the area. As the proposal is now to include restricted holiday occupancy this issue has effectively been overcome. Officers now consider that, on balance, given the positive benefits of the scheme in design terms, the regeneration benefits, the net uplift in the quality of the local holiday provision the scheme is acceptable in planning terms. It is considered that the one remaining negative aspect, the extension of the built footprint within the AONB, is negated by these wider benefits and general enhancements to the scheme within the AONB. The proposal is therefore considered acceptable.

### **Recommendations**

Committee site visit; Conditional approval; subject to the signing of a s106 legal agreement with clauses to ensure the appropriate holiday occupancy of the site, the s106 to be signed within 6 months of the date of this committee meeting. Conditions to include the schedule attached and any other conditions deemed necessary by the Executive Head of Spatial Planning.

### **Condition(s):**

01. The holiday units hereby approved shall at all times be used for holiday purposes only and not for permanent residential occupation or occupied as a person's sole or main residence.

Reason: In order to ensure the continuance of the holiday provision and to guard against the introduction of potentially conflicting permanent occupancy use, within what is a restricted high-density site, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

02. A register of visitors and their main residential addresses shall be maintained at all times by the site manager, or other party as previously agreed by the Local Authority, which shall be maintained and made available for inspection by the Local Planning Authority at all reasonable times.

Reason: To ensure that the holiday units are used for holiday purposes, in order to accord with policies TUS, TU3, TU7, TU9, TU10, HS, H6 and H9 of the saved adopted Torbay Local Plan 1995-2011.

03. The leisure facilities detailed within the plans hereby approved shall be completed and made available for use, in full, prior to the first occupancy of the first unit, unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure an appropriate mix of uses on the site and form of development, in accordance with Policies BES, BE1, LS, L1, TUS, TU3, H9 and W7 of the Saved Torbay Local Plan 1995-2011.

04. Prior to the commencement of the development hereby approved samples of all external materials shall be submitted to or made available on site for the Local Planning Authority and agreed in writing. The development shall be completed in the approved materials.

Reason: In the interests of the visual amenities of the locality, in accordance with Policies H2, H9, BES, BE1 and BE5 of the Saved Adopted Torbay Local Plan 1995-2011.

05. The development shall not be used/occupied until the vehicle parking areas and access thereto shown on the approved detailed plans have been provided and made available for use. These areas shall be kept permanently available at all times thereafter for parking and access purposes to serve the development.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Saved Torbay Local Plan, 1995 - 2011 (as adopted in April 2004), in the interests of highway safety, and in order to protect the amenities of the neighbourhood.

06. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials, planting plans, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate, along with an implementation programme. The works shall be carried out within the first available planting season following the first occupation of the development. If within a period of 2 years from the completion of the development any tree or shrub planted as part of the approved landscaping scheme is cut down, felled, uprooted, removed, destroyed or dies or becomes seriously defective, it shall be replaced by another of a similar size and species in the next planting season following its removal/death or deflection, unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of the landscape character of the area and the impact on the Conservation Area, in accordance with Policies LS, L9 and BES of the Saved Adopted Torbay Local Plan 1995-2011.

07. All mitigation and enhancement proposals put forward within the submitted Ecological Impact Assessment (EAD, Jan 2011) shall be implemented as detailed, in full, unless otherwise submitted to and approved by the Local Planning Authority.

Reason: To suitably manage and protect identified species and habitats, in accordance with Policies NCS, NC1 and NC3 of the Saved Torbay Local Plan 1995-2011.