

**Application Number**

P/2013/1282

**Site Address**Land At Brixham Road  
Yannons Farm (Area A)  
Paignton**Case Officer**

Matt Diamond

**Ward****Description**

Erection of retail building (Use Class A1), with associated access, parking, service yard and plant; health centre (Use Class D1/A1/A2), with associated access and parking; mixed use building comprising 6 no. 2-bed flats (affordable) and 2 no. commercial units (Use Class B1/A1/A2/A3/D1), with associated access and parking; 4 no. 2-bed dwellings (affordable) and 5 no. 3-bed dwellings (affordable), with associated access and parking; associated roads, parking, play area, amenity space, landscaping and substation to form a Local Centre (reserved matters relating to P/2010/0289/MOA).

**Executive Summary/Key Outcomes**

The proposals are to create a local centre on the site in accordance with the section 106 agreement attached to outline planning permission ref. P/2010/0289/MOA. The local centre would comprise a small Aldi supermarket and its car park, a health centre, a mixed use building with two commercial units and flats, 2 and 3-bed housing, and a landscaped square. The proposed uses and amount of floorspace complies with the section 106 agreement definition of local centre. Its location is different to the indicative proposals submitted with the outline application, due to the Pharmaceutical Manufacturing Unit (PMU) being built on this land. However, the location is considered acceptable, as it is within walking distance of the PMU and new housing within the Yannons Farm/Park Bay developments, and it would also be accessible to residents of Roselands on the opposite side of Brixham Road. Clearly, the proposals would also attract passing trade along Brixham Road, but this would ensure the centre's long term viability.

The layout of the central part of the scheme is unacceptable to officers at present and negotiations are taking place regarding the redesign of this space. An update will be presented at Committee. If this cannot be agreed before Committee, officers will seek delegated authority to agree these matters within the statutory time period.

It is understood that only one of the two existing GP practices now intends to relocate to the proposed new health centre. Officers are seeking clarification as to whether this is likely to affect the design of the proposed health centre and will provide an update at Committee.

A number of conditions are required to address technical matters, which are listed at the end of this report.

### **Recommendation**

Conditional approval; subject to submission of revised drawings within 13 week statutory time period to the satisfaction of the Director of Place otherwise the application be refused; conditions delegated to the Director of Place.

### **Statutory Determination Period**

The application is a major application and was validated on 10.01.2014. The 13 week determination date is 12.04.2014.

### **Site Details**

The site is a square area of land adjacent to Brixham Road within the Yannons Farm development. Outline planning permission was granted to develop Yannons Farm for a mix of uses in 2011, including: approx. 220 dwellings, approx. 5,600 sq m employment (B1) floorspace, a local centre and public open space. The indicative proposals submitted at outline stage envisaged the site being developed for housing, with a small local centre further to the west. However, the site to the west has since been developed as a Pharmaceutical Manufacturing Unit (PMU), delivering all of the employment floorspace in the scheme, and an alternative location for the local centre is needed.

The site area is approximately 1.26 hectares. It is bounded by Little Preston Lane leading to Little Preston, a detached bungalow, to the north, Brixham Road to the east, the main access road into the Yannons Farm development to the south and a field to the west. The field is not part of the Yannons Farm development site and is allocated for employment in the Local Plan.

The site slopes down to the northwest, with an overall drop of around 5 metres. A line of trees bisects the site to the north.

### **Detailed Proposals**

The proposals are to develop a local centre on the site comprising the following:

- Aldi retail unit (1,535 sq m GFA, 1,140 sq m net retail area), with associated car park (74 spaces), service yard (with 8 staff car parking spaces, lorry bay and plant), and additional on-street parking (6 spaces)
- Health centre with complimentary D1, A1, A2 unit(s), with associated car park (16 spaces) and on-street parking (7 spaces)

- Mixed use building incorporating 2 commercial units (B1, A1, A2, A3 or D1) and 6 no. 2-bed flats, with associated car park (10 spaces)
- 9 dwelling houses in 2 terraces (4 no. 2-beds and 5 no. 3-beds), with associated parking court (15 spaces)
- A landscaped square (privately managed, but publicly accessible) incorporating a children's play area
- Access roads and additional parking
- Substation

The design of the landscaped square and surrounding highways is currently being revised to take into account the comments from Strategic Transportation/Highways and officers. It is likely that this will result in the loss of one dwelling. It could also lead to the reallocation of parking spaces across the scheme within the public areas. Officers are also negotiating for the introduction of an element of glazing to the north elevation of the Aldi store in order to provide a more active and visually interesting elevation facing the landscaped square.

The plans state that the health centre would be occupied by Grosvenor Surgery and Withycombe Lodge Surgery. However, it has been confirmed that Withycombe Lodge Surgery will no longer be relocating to the proposed health centre because long term patients were concerned with the prospect of the practice moving to the other side of town. It has been confirmed that Grosvenor Surgery still intends to relocate to the new premises.

The plans indicate that the complimentary units to the health centre would be used as an opticians and chiropodist, but this has not been confirmed. The applicant has informed officers that a dental practice might occupy some of the space within the health centre too.

All the buildings would have a contemporary appearance fitting into the character of the wider Yannons Farm development. The Aldi store would have a flat roof with white render walls and glazing. The health centre would have an artificial slate roof, with brick/boarding/render walls. The mixed use building would have a single ply membrane standing seam roof, with grey brown brick walls on the ground floor and self coloured render above. The dwelling houses would be built from the same materials as the mixed use building.

Access/egress to/from the site would be provided via a new adopted highway in the southwest corner, leading down from the main access road into the Yannons Farm development.

## **Summary Of Consultation Responses**

*Torbay Design Review Panel* (comments made at pre-application stage): There are significant design weaknesses in the proposed layout. Therefore, either the brief must change or the location. In both cases a much stronger understanding and case for the type of local centre being attempted needs to be made. The inclusion of the Aldi store is an attractive financial proposition and it could form a stronger than expected retail facility to anchor the local centre, but the urban design consequences in including it on this relatively small site have not been resolved satisfactorily. The long term health, vitality and viability of the local centre as a successful community asset projected into the future could therefore be threatened.

*Strategic Transportation/Highways:* Highways stated that the proposed gyratory one way system was not acceptable for adoption, therefore negotiations are taking place over a revised road layout. Strategic Transportation stated that the dwellings should be accessible by an adopted road, but the proposed layout does not facilitate this and is muddled. Therefore, the proposed layout is not supported. There is also inadequate provision for pedestrians and cyclists. The design should prioritise people over traffic, with better connections for pedestrians and cyclists.

*Engineering - Drainage:* The application indicates that surface water drainage will go to soakaways, but no technical information has been submitted to demonstrate that this is feasible. This information must be submitted before planning permission can be granted.

*Police Architectural Liaison Officer:* The development should ideally be constructed to achieve full Secured by Design (SBD) compliance. There needs to be clear definition between the public and private areas. The parking spaces throughout the development should be clearly allocated to prevent conflict over their use. Planting in the Aldi car park should be low and well maintained to facilitate natural surveillance. The Aldi car park should be broken up with landscaping to restrict anti-social driving when the store is closed. A gate/barrier to the car park should be considered. This also applies to the car park to the mixed use building. Effective lighting and CCTV should be installed.

*Arboricultural Officer:* The species selected are acceptable to the main however greater acknowledgement of the location of the site on the urban fringe is required by use of native species or cultivars. The elevation bounding Brixham Rd formed mainly by the car park to the Aldi store requires tree planting to soften and integrate the site when viewed from properties facing. This may be accomplished by way of use of Tree Pit Design 1 amongst car parking bays. Variation from the species adjacent to the Health Centre (Brixham Rd side) is required to provide longer term and more effective screening from this important elevation facing the road. The supporting tree report should be enacted in its

entirety in relation to those elements of hedgerow to be retained.

Parks: Awaiting comments

Housing Services: Awaiting comments

Torbay Development Agency: Awaiting comments

Community Safety: Awaiting comments

Building Control: Awaiting comments

### **Summary Of Representations**

One letter of objection received. The following issues were raised:

Concerns with how excess water running off the tarmac areas will be dealt with

Where will proposed soakaway(s) be located?

Concerns over potential loss of light to Little Preston from new housing on elevated land and new trees

A copy of these have been sent electronically for Members consideration.

### **Relevant Planning History**

P/2014/0021/PA: Creation of access road, parking areas and car park:  
Pending consideration

DE/2013/0445/ZP: Local Centre reserved matters, following outline planning permission (P/2010/0289) (pre-application enquiry): Split decision 07.11.2013

P/2013/0203/NMA: Non material amendment - to application P/2010/0289/MOA - condition 4 - drainage system: Approved 28.02.2013

P/2012/1361/NMA: Non material amendment to condition 3 to application P/2010/0289/MOA -Layout: Approved 20.05.2013

P/2012/1246/NMA: Non material amendment to condition 4 of application P/2010/0289/MOA to allow for a phased submission of drainage details: Approved 31.01.2013

P/2012/1156/VC: Variation of condition 11 to application P/2010/0289/MOA – wording to tree condition to allow for a phased submission of tree protection measures to correlate with each stage of the development: Approved 01.02.2013

P/2012/0705/VC: Implement permission P/2010/0289/MOA without compliance to condition 13 - bat roost: Approved 25.09.2012

P/2010/0289/MOA: Mixed use development to form approx 220 dwellings, approx 5,600 SQM gross of employment (B1) floorspace, local centre and public open space with roads and car parking (In Outline) THIS IS A DEPARTURE FROM THE TORBAY LOCAL PLAN: Approved 04.10.2011

### **Key Issues/Material Considerations**

The key issues are:

1. Principle of Development
2. Design
3. Timing and Delivery
4. Parking
5. Impact on Highways
6. Impact on Amenity of Neighbouring Properties
7. Impact on Trees and Biodiversity
8. Drainage
9. Affordable Housing

#### **1. Principle of Development**

The principle of providing a local centre as part of the Yannons Farm development was approved by outline planning permission ref. P/2010/0289/MOA. The section 106 agreement attached to this permission defined local centre as:

A building or buildings with a total net internal floor space of at least 1,000 square metres (in addition to the Employment Accommodation) to be constructed on the land shown shaded blue on Plan 2 for illustrative purposes only (or any other land within the Site deemed appropriate by the Council for which all reserved matters approvals have been obtained) with uses falling within Use Class A1, A2, A3, B1, C2 and/or D1 within the meaning of the Town and Country Planning (Use Classes) Order 1987.

The total net internal floor space of the proposed retail unit, health centre and two commercial units is 2,111 sq m. The retail unit falls within Use Class A1. Permission is sought for Use Classes D1, A1 and A2 within the health centre. Permission is sought for Use Classes B1, A1, A2, A3 or D1 within the two commercial units. Therefore, the proposals comply with the definition of local centre within the section 106 agreement in terms of uses and floor area.

With regard to location, it is no longer possible to construct the local centre on the land shaded blue on Plan 2 within the section 106 agreement because this land has since been developed as the PMU. Therefore, an alternative location is

needed on the site. Whilst the proposed development site was originally envisaged to be developed for housing, it is considered an appropriate location for the local centre as it is within walking distance of the PMU and proposed housing, and would also be accessible to existing housing in the Roselands area of Paignton. In addition, the applicant considers it to be a commercially viable location for a local centre.

As a separate issue, the gross floor area of the proposed Aldi store is 1,535 sq m. This is below the default threshold of 2,500 sq m in the NPPF where an impact assessment would be required. However, it is above the local threshold of 500 sq m set out in Policy TC3 of the new Torbay Local Plan - Proposed Submission Plan (February 2014), which has just been published for consultation. Given the new Torbay Local Plan has limited weighting at this time, officers have not requested the submission of an impact assessment. It is considered likely that the proposed Aldi store would draw trade away from the existing larger supermarkets in the vicinity of the site, i.e. Sainsbury's, Asda and Morrisons, rather than have a significant impact on existing centres.

Therefore, the principle of the proposed development is considered acceptable and in accordance with the outline planning permission.

## **2. Design**

The application seeks detailed approval for the reserved matters of access, layout, scale, appearance and landscaping.

A pre-application enquiry was submitted for the scheme and the draft proposals were taken to the Torbay Design Review Panel (TDRP). The Panel was run as a design workshop, where Panel Members, officers and the applicant's design team discussed the scheme. A number of alternative layouts were tested, but a satisfactory approach could not be reached. The TDRP concluded that the site was too constrained for all of the proposed uses to create a successful local centre. In particular, the incorporation of the Aldi store and its car park placed a great deal of pressure on the satisfactory arrangement of the site. The TDRP also recognised that whilst the Aldi store would potentially provide a greater amenity to local residents, it would also attract passing trade along Brixham Road, which would increase traffic to the site acting as a barrier to pedestrian/cycle movement. In addition, it is likely that it would be closed on Sunday evenings, limiting its role as a convenience store.

The application proposals do not differ significantly from the pre-application proposals. However, officers consider that the proposed uses offer the best option for the provision of a local centre at Yannons Farm, taking into account the definition of local centre in the section 106 agreement and the commercial reality of providing viable retail uses on the site. Therefore, as a compromise to allowing the difficult Aldi store and its car park, officers have sought the provision of a high quality designed, pedestrian focused landscaped square within the centre of the

site that functions as the 'heart' to the local community and doesn't come across as just a secondary piece of public open space.

The applicants have endeavoured to do this, but the resulting 'shared space'/one way gyratory system is not acceptable to Highways and is considered to be too vehicle dominated and lacking in design quality/identity to create an acceptable 'heart' to the local community. Therefore, negotiations are ongoing in order to resolve these issues and the updated position will be presented at Committee. Should the design not be agreed before Committee, officers would like delegated authority to continue negotiating with the applicant to try and resolve these issues within the 13 week statutory time period.

The outstanding issues affect the reserved matters of layout and landscaping. The Arboricultural Officer has made a number of comments with regard to the latter that also need to be taken into account.

The vehicular access to the site in the southwest corner and pedestrian/cycle access in the southeast corner are both acceptable. Likewise, the scale and appearance of the buildings are acceptable, subject to providing a more active northern elevation to the Aldi store facing the landscaped square. This is a very blank and uninteresting elevation at present that would impact on the amenity of users of the landscaped square. A condition is also required for details of materials specification/colouration prior to commencement of the buildings.

### **3. Timing and Delivery**

It is considered that all the proposed uses are required for the development to constitute a local centre. Therefore, there is a risk that only one of the proposed uses could be constructed, such as the Aldi retail unit and its car park, but none of the other uses. The applicant might then seek to enlarge the retail unit and/or car park at a later point in time impacting on the rest of the scheme.

In order to protect the Council's position in this regard, a suitably worded condition is recommended to ensure the early delivery of the health centre, mixed use building, housing and landscaped square.

### **4. Parking**

Officers have requested further justification for the allocation of parking across the scheme. This has not been forthcoming. Officers are concerned that only 7 visitor car parking spaces are proposed for the health centre. Whilst some patients might choose to park in the Aldi car park, Aldi could restrict the use of its car park to customers only. Therefore, the car park behind the health centre should be available to patients and not just staff.

5 car parking spaces are proposed adjacent to the landscaped square for general use. The need and location of these is being considered in the revised proposals. The comments from the Police Architectural Liaison Officer are

relevant, which state that the parking spaces throughout the development should be clearly allocated to prevent conflict over their use. This should be achieved where possible through good design instead of a reliance on signage.

The Aldi car park complies with the Council's adopted parking standards. 2 spaces per dwelling are proposed for the 3-bed houses and 1 space per dwelling for the 2-bed houses in the parking court, with one left over space. Whilst this does not strictly accord with the adopted parking standards, it is considered acceptable given the edge of town location. The loss of one of the dwellings in the revised proposals will free up additional spaces in the parking court to facilitate 2 spaces per dwelling for 7 of the houses and 1 space for 1 house. 1 space per dwelling would be provided for the flats in the car park behind the mixed use building, which is acceptable.

### **5. Impact on Highways**

Highways officers have raised no concerns with the impact of the proposals on the function of surrounding roads. However, Strategic Transportation officers have requested provision of a crossing point for cyclists and pedestrians on the main access road from Brixham Road to make it easier to access the site on foot/bicycle. They have also requested upgrading the traffic signals at the Brixham Road junction to a toucan crossing. These improvements to the adjacent road are still being negotiated with the applicant, but could be secured via condition/278 agreement.

### **6. Impact on Amenity of Neighbouring Properties**

Despite the site being slightly elevated compared to the existing bungalows to the north, there is sufficient separation distance between the buildings to protect the privacy and amenity of the bungalows. In addition, trees and structure planting is proposed along the northern boundary to provide an element of screening. Should the application be approved, a management plan would be required to ensure that this vegetation does not become overgrown and block light levels to the bungalows in the future. This can be secured by condition.

### **7. Impact on Trees and Biodiversity**

These issues were taken into account in the outline application and are controlled by conditions on the outline planning permission.

### **8. Drainage**

Condition 4 on the outline planning permission requires details of a sustainable urban drainage system. This condition has been amended to allow these details to be submitted prior to the commencement of construction of the drainage scheme of any phase of development. In theory, this means that the drainage system could be designed and implemented after the development has been constructed, even though this is unlikely.

To protect the Council's position in this regard, two further conditions are

recommended. The first would require the proposed soakaways to be constructed underneath adopted highways or car parks in order to provide adequate space for trees to grow and protect good quality surface materials from damage should maintenance need to be carried out to the soakaways in the future. The second would require the design of the drainage system to take into account the issue of water re-emergence after it has soaked away to ensure that the neighbouring bungalows are not flooded from the proposed development. This responds to concerns raised by the owner of Little Preston.

### **9. Affordable Housing**

The application states that the intention is that all of the proposed dwellings would be affordable housing. However, officers in agreement with the Affordable Housing Manager require a mix of open market and affordable housing on the site in order to provide a mixed and balanced community.

The mix of open market and affordable housing on the site does not form part of this reserved matters application in any case, as it is addressed by the section 106 agreement attached to the outline planning permission (ref. P/2010/0289/MOA). Agreement must be reached separately with the Council concerning this matter. Officers are still negotiating with the applicant in this regard.

### **S106/CIL -**

The section 106 agreement attached to outline planning permission ref. P/2010/0289/MOA is of relevance.

### **Conclusions**

In conclusion, the proposals are acceptable subject to the submission of revised drawings within the statutory 13 week time period that address the issues raised in this report. The proposals would provide a mix of uses that have the potential of creating a viable local centre with vitality. The proposed dwellings would ensure a human presence during evenings and at weekends when the Aldi store, health centre and commercial units are closed. There is potential to create a high quality designed landscaped square that would be the focus of the local community. Negotiations are ongoing with the applicant in this regard.

### **Condition(s)/Reason(s)**

01. No development shall take place until a Phasing Plan for the development of the site has been submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall split the development of the buildings and associated parking, and landscaped square on the site into different phases. The development shall be constructed in strict accordance with the approved phasing plan.

Reason: To ensure the delivery of all the uses and landscaped square in the Local Centre in order to provide a Local Centre with vitality that meets a range of local needs and provides a sense of identity to the neighbourhood in accordance with saved Policies S11, BE1 and BE2 of the Adopted Torbay Local Plan 1995-2011, and paragraphs 23, 58 and 70 of the NPPF.

02. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:(a) the parking of vehicles of site operatives and visitors (b) loading and unloading of plant and materials (c) storage of plant and materials used in constructing the development (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate (e) wheel washing facilities (f) measures to control the emission of dust and dirt during construction (g) a scheme for recycling/disposing of waste resulting from demolition and construction works(h) measures to minimise noise nuisance to neighbours from plant and machinery

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users.

03. Prior to the commencement of development of each of the buildings, an External Materials Schedule shall be submitted to and approved in writing by the Local Planning Authority showing full details of all external materials of the building, including specification, colouration and images. The External Materials Schedule shall include the arrangements for the display of samples of materials on site prior to the approval of the same. The buildings shall be constructed from the materials approved.

Reason: In the interests of design and in order to accord with saved Policies BES and BE1 of the Adopted Torbay Local Plan 1995-2011, and paragraph 58 of the NPPF.

04. The development shall be built to Secured by Design Standards and shall aim to achieve a full certification in this regard. Evidence that this has been achieved shall be submitted to and approved in writing prior to the useful occupation of any of the buildings hereby permitted. This shall account for the advice by the Police Architectural Liaison Officer.

Reason: In the interests of crime prevention in accordance with saved Policy CF2 of the Adopted Torbay Local Plan 1995-2011.

05. 278 Agreement

06. Prior to the useful occupation of any of the buildings hereby permitted, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP shall include: long term design objectives, ecological objectives, management responsibilities and maintenance schedules for all landscape areas. The LEMP shall be implemented as approved.

Reason: In the interests of the amenities of the area and biodiversity, and in order to accord with saved Policies L10 and BE2 of the Adopted Torbay Local Plan 1995-2011, and paragraphs 58, 64, 109 and 118 of the NPPF.

07. None of the buildings hereby permitted shall be usefully occupied until all of the car parking spaces and access thereto associated with the building shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and in the interests of highway safety and in order to protect the residential amenities of the neighbourhood.

08. The details of the sustainable urban drainage system required by Condition 4 (as amended) of outline planning permission P/2010/0289/MOA shall include details of how the drainage system will not affect the five existing dwellings to the north of the site from the re-emergence of surface water. Any soakaways shall be placed either beneath adopted roads or private car parks and shall not be placed beneath the landscaped square.

Reason: To protect the existing dwellings on the lower ground to the north of the site from flooding and to ensure that no trees, planting and good quality materials in the landscaped square are damaged should maintenance need to be carried out to the soakaways in the future in accordance with saved Policies EPS and BES of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

09. Convenience/Comparison goods floor area in Aldi

10. Delivery and unloading times

## **Relevant Policies**

- HS Housing Strategy
- H9 Layout, and design and community aspects
- H10 Housing densities
- S11 New Local Centres
- CF2 Crime prevention
- IN1 Water, drainage and sewerage infrastructure
- L10 Major development and landscaping
- EPS Environmental protection strategy
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- TS Land use transportation strategy
- T1 Development accessibility
- T2 Transport hierarchy
- T25 Car parking in new development
- T26 Access from development onto the highway