

Application Number

P/2015/0840

Site Address1 Southfield Road
Paignton
Devon
TQ3 2SL**Case Officer**

Mr Scott Jones

Ward

Clifton With Maidenway

Description

Erection of 4 storey block of flats comprising 12 no. 2-bed flats, with associated pedestrian/vehicular access and parking

Executive Summary/Key Outcomes

The application is to develop a 4-storey block of flats (12 no. 2-bed flats) on the grassed, amenity area of an existing block of flats (11 flats) at 1 Southfield Road to the northwest of Paignton Town Centre. The site is located within and on the edge of the Old Paignton Conservation Area.

A proposal for a similar development was refused in 2007 and dismissed on appeal. However, subsequent applications were approved due to comments made by the appeal Inspector stating that the design would enhance the character and appearance of the Conservation Area.

There has been a material change in planning policy since the last grant of planning permission in 2012. Consequently this application must be assessed against the new Local Plan and determined in accordance with the Local Plan unless there are clear material reasons for departing from the Plan.

Whilst the principle of developing housing on the site is considered to be acceptable by officers, the proposed design is considered to be unacceptable due to the scale of development and the resultant residential environment, and the height and lack of distinctiveness of the building. It will harm the character and appearance of the Conservation Area accordingly and it will cramp and overdevelop the site, presenting a poor residential environment for future occupiers by reason of the arrangement of parking and buildings, and the quality of the resultant amenity space for the residents of the flats or the existing flats.

Therefore, despite the earlier decisions the application should be refused. This takes into account the Policies of the new Local Plan and a recent appeal decision made with respect to the Gleneagles Hotel site in Torquay, which are new material considerations carrying significant weight. Officers' preference is for a building of a reduced scale and lower height that is subservient to the historic host building on the site, whilst leaving adequate parking, manoeuvring and amenity space around it for landscaping and for use by residents. This will

help the development to blend into the landscape setting and help provide a good standard of residential accommodation.

In addition, insufficient information has been submitted with the application to demonstrate that the proposal will not result in downstream flooding within the Critical Drainage Area (CDA). Detailed drainage proposals must be submitted with planning applications, with priority given to sustainable drainage systems where feasible. No infiltration testing has been carried out on the site to investigate whether a SUDS system is feasible and the submitted Flood Risk Assessment lacks detail and justification why this is the case.

Taking the above issues into account, the application should be refused.

Recommendation

Refusal; for the reasons set out in this report.

Statutory Determination Period

The application was validated on 04.09.2015. The statutory determination date is 05.12.2015 (13 weeks). An extension of time until the 29.02.2016 has been agreed.

Site Details

The site is a back-land site behind properties fronting on to Colley End Road to the northwest of Paignton Town Centre. It is approximately 0.23ha in area. It comprises the sloping, grassed amenity area of an existing 4-storey block of flats (11 flats) and the existing parking court and part of the access road to Southfield Road. The existing block of flats is outside the application site boundary, but is within the same ownership as the site.

The site is bounded by the gardens of residential properties fronting onto Redburn Road to the north, Southfield Road and Colley End Road to the east, residential properties and Kitson Hall fronting onto Colley End Road to the south, and Kirkham Court to the west. The immediate area is primarily residential. To the northeast of the site entrance are a Grade II listed warehouse and church.

The site is located within and on the boundary of the Old Paignton Conservation Area. Apart from this it is undesignated in the Torbay Local Plan 2012-2030. The site lies at the margins of the Conservation Area in an area that is one of transition from the more industrial area to the south-east around Well Street to an area of Villa development around Southfield Road where the site sits, which displays a more open character and verdant feel.

Detailed Proposals

The proposed development is to develop a 4-storey block of flats (12 no. 2-bed flats) on the sloping, grassed amenity area of the existing block of flats on the site. It is a re-application of a scheme granted planning permission in 2009 and

which was granted an extended time limit to implement in 2012. The scheme remains unimplemented.

A new access drive will be constructed from Southfield Road over part of the existing access road. Unlike the existing access, the new access will go directly up the slope and will have a steep gradient of 1:7. This will lead to a rearranged parking court with a total of 26 car parking spaces. 23 of the spaces will provide 1:1 parking for the existing and proposed blocks of flats. 3 additional spaces will be provided for an adjoining site on the remaining part of the existing access road, which was granted planning permission for 3 dwellings fronting onto Colley End Road in April 2014. This development is tied to the current application by a condition that prevents occupation of the 3 dwellings until the access and car parking spaces, subject to the current application, have been provided and made available for use.

Summary Of Consultation Responses

Strategy and Project Delivery Team/Highway Department:

The Local Highway Authority object to the scheme as it stands as the access for the proposed development should be no steeper than a gradient of 1:8 and the scheme proposes a gradient of 1:7. There is also concern that commercial and waste vehicles would be unable to access the site adequately, manoeuvre and enter and exit in a forward gear, which may increase the risk of danger to highway users. In addition it is highlighted that the proposed disabled parking space does not accord with Council size standards, and that it is not clear that cycle parking can be provided on a 1:1 basis or an electric car charging point achieved.

Environment Agency:

Refer to Standing Advice, as site within CDA - follow SUDS hierarchy, by using infiltration as far as practicable.

Historic England:

Comment that they were not consulted on 2009 scheme. Question whether the design is of sufficient quality for a conservation area context. This part of the conservation area has indifferent quality. Advise Council to take into account Para 137 of the NPPF - 'local planning authorities should look for opportunities for new development within conservation areas... to enhance or better reveal their significance.' These issues should be addressed. Recommend application is determined in accordance with national and local policy guidance, and on basis of Council's specialist conservation advice.

Engineering: (on behalf of Torbay Council as Lead Local Flood Authority):

A sustainable drainage option must be investigated before a decision is made to connect to the main sewer. No details provided in the application of the proposed surface water drainage system. Details of infiltration tests and detailed

design of soakaways (if viable) must be provided before planning permission is granted. If ground conditions are not suitable, detailed design of surface water drainage system must be provided with discharge to combined sewer controlled to greenfield runoff rate.

South West Water:

Cannot support application as the proposed means of surface water drainage specified on the application is by connection to the public combined sewer which is against South West Water policy. Note that the flood risk assessment references the use of a SUDs system which needs to be fully investigated prior to SWW giving any consideration to a connection of this element to the public sewer. As the site is within Critical Drainage Area, the Council's Engineering department and Environment Agency must be consulted.

Police Architectural Liaison Officer:

Recommend the development is constructed to achieve full compliance of Secured by Design. Refuse and bike stores must have no windows and be fitted with a secure door with access only to residents. Car parking spaces should be allocated to prevent conflict over use. Other more detailed comments relating to the building provided.

Arboricultural Officer:

The only constraining arboricultural feature is a large mature Cherry tree to the west of the existing car park, which enhances the Conservation Area. Further car parking is proposed beneath the tree and to the west, accessed by a new driveway under the canopy. No supporting tree report submitted. There opportunity for tree planting and in an area where tree density is low the scheme is suitable for approval on arboricultural merit, however prior to any approval the following should be submitted:

1. Detailed methodology to create a no dig driveway solution and tree protective plan in accordance with B.S.5837:2012 should be submitted, together with Trees in relation to design, demolition and construction - recommendations to be installed prior to any commencement on site.
2. Detailed landscaping plan to including the planting of a number of specimen trees amongst other soft landscaping details.

Natural Environment Services:

General comments made regarding biodiversity and greenspace/recreation: Any planning application on, or adjacent to, a greenfield or vegetated brownfield site has potential to impact biodiversity, requiring an Extended Phase 1 Habitat Survey. This will identify whether further protected species surveys are required. Existing features should be incorporated into landscaping proposals. Bird nesting and bat roosting sites should be incorporated into the built fabric if possible. Where no, or limited, greenspace and recreation provision is proposed

onsite, a contribution should be sought in accordance with the Planning Contributions and Affordable Housing SPD.

Senior Heritage & Design Officer:

Objects - similar to previous scheme that was refused (partly on design grounds) in 2007 and dismissed at appeal in January 2008, however the Inspector considered the design to be appropriate in the context of the Conservation Area. Therefore, subsequent applications were allowed.

The policy context has changed since the scheme was last renewed in 2012 and the new Local Plan has been adopted and Policy SS10 carries significant weight.

Considers the scheme will not sustain and enhance the Conservation Area, contrary to new Local Plan Policy SS10, and it will cause less than substantial harm to the Conservation Area, as it is not subservient to the host historic building and will be highly visible in the street scene. The proposed height and massing are considered inappropriate, and fail to take the opportunities available to improve the character and quality of the area (NPPF Para 64). This principle (of taking opportunities to improve the character and quality of a Conservation Area) was supported by the Inspector in the recent Gleneagles appeal.

Conclude that a well proportioned building would make good use of this space and would have the potential to meet Policy SS10 of the new Local Plan. No Statement of Heritage Significance submitted.

Senior Historic Environment Officer:

The site has known archaeological potential. A desk based assessment is not required, however standard archaeological condition should be imposed.

Summary Of Representations

12 objections have been received; 8 of these are from residents of Kirkham Court to the west of the site. The following issues have been raised:

- Scale is overpowering and will dominate area
- Impact on drainage system
- Could increase flooding risks to properties below
- Cramped
- Will block light to neighbouring properties
- Integrity of retaining wall - rear of Redburn Road properties
- Impact on highways - increased traffic/parking
- Impact on privacy of neighbouring properties from overlooking
- Overshadowing
- Design does not take into account Conservation Area
- Insufficient parking
- No space for children to play
- Too large and high

- Will do nothing to improve the character of the neighbourhood
- No guest parking
- Nowhere to park in vicinity of site
- Not in keeping with surrounding properties
- Noise - traffic/parking
- A 50-year old tree will have to be cut down and it will also affect the wildlife in the field
- Too near old wall
- Overdevelop area

Relevant Planning History

P/2012/0984: Extend time limit - formation of 3 dwellings with altered access drive and pedestrian/vehicular access - application P/2009/0574/PA: Approved 01/04/2014 (NB. This relates to the adjoining site, which shares the proposed access of the current application)

P/2012/0516: Extend time limit - Formation of 12 - 2 bedroom flats with pedestrian/vehicular access (revised scheme) application P/2009/0281/MPA: Approved 04.09.2012

P/2009/0574: Formation of 3 dwellings with altered access drive and pedestrian/vehicular access: Approved 04/09/2009 (NB. This relates to the adjoining site, which shares the proposed access of the current application)

P/2009/0281: Formation of 12 no. 2 bedroom flats with pedestrian/vehicular access (revised scheme): Approved 12/06/2009

P/2008/0560: Formation of 12 no. 1 bedroom flats with pedestrian/vehicular access: Approved 03/07/2008

P/2007/0007: Erection Of 12 No 1 Bedroom Flats With Pedestrian/Vehicular Access; Remedial Works To Existing Building: Refused 06/03/2007. (NB. This application was subsequently dismissed at appeal; however, the Inspector stated in his decision that "the scheme would enhance the character and appearance of the conservation area" and "would provide adequate parking for residents and visitors to the site".)

P/2006/0490/PA: Erection of 12 one bedroom flats: Refused 15/01/2006

P/2004/1131: Planning application for the erection of 3 dwellings with altered access drive and pedestrian vehicular access within the grounds of 1 Southfield Road: Approved 26/08/2004

P/2004/0079: Erection of two houses on land off Colley End Road within the grounds of 1 Southfield Road: Refused 04/03/2004

Key Issues/Material Considerations

The key issues are:

1. The Principle of the Development
2. Affordable Housing
3. Design and Impact on Conservation Area
4. Amenity Issues
5. Access and Impact on Highways
6. Car Parking
7. Impact on Trees
8. Biodiversity
9. Surface Water Drainage and Flood Risk

1. The Principle of the Development

The recently adopted Torbay Local Plan 2012-2030 is a material consideration and provides a new policy context.

The part of the site where the new building is proposed is greenfield, as it comprises the grassed, amenity area of an existing block of flats sharing the same access. The NPPF excludes land in built-up areas such as private residential gardens, parks, recreation grounds and allotments from the definition of 'previously developed land' (brownfield). Consequently, local and national policies promoting the reuse/redevelopment of brownfield land do not apply in this case. The site should be treated as a Greenfield site.

Other than being located in a Conservation Area, there are no designations affecting the site that restrict its development for new housing. It is well located, close to the shops and facilities within Paignton Town Centre, allowing ease of access by sustainable modes of travel, such as walking and cycling.

The planning history of the site is a material consideration. It has already accepted that the site can be developed for new housing.

Therefore, the principle of developing the land for new housing is considered by officers to be acceptable.

2. Affordable Housing

Affordable housing was not provided in previous applications. However the new Local Plan provides fresh context. The current application offers no affordable housing.

This is a Greenfield site and policy H2 of the new Local Plan applies. The policy provides the thresholds for affordable housing on greenfield sites and seeks the provision of 20% affordable housing on this site. Officers have not sought to negotiate affordable housing provision to meet policy requirements, as the proposal fails against other policies.

It is recommended that the absence of an acceptable level of affordable housing provision is cited as a reason for refusal in order to protect the Council's position on this. Should Members wish to support its application it is recommended that officers are asked to negotiate affordable housing provision in accordance with policy, unless informed otherwise via an independent viability assessment, to be secured via a s106 legal agreement.

3. *Design and Impact on Setting of Conservation Area*

The site is located within and on the edge of the Old Paignton Conservation Area in an area that is one of transition in terms of character, from the more industrial area to the south-east around Well Street to an area of less dense Villa development around Southfield Road where the site sits, which displays a more open character and verdant feel.

As the site is within a Conservation Area the relevant heritage policy of the new Local Plan applies.

An application by the same applicant for a slightly smaller, 4-storey block of flats (12 no. 1-bed flats) was refused by the Council in 2007, in part due to its:

"unsympathetic design and appearance which would make it out of keeping with the long-established layout of this part of the town, would detrimentally impact upon the Old Paignton Conservation Area within which it sits, and the street scene in general, and would have a poor relationship with the historic church next door."

Whilst the subsequent appeal was dismissed, the Inspector stated that the scheme 'would enhance the character and appearance of the conservation area'. The Inspector considered that the sloping, grassland area on which the building would be sited 'provides limited visual benefit to the locality and, due to its topography, limited recreational value to the existing block of flats.' The Inspector went on to state that the building would:

"positively relate, in terms of height and scale, to the existing building to the east and would be orientated to take reasonable advantage of the southern aspect and to respect the arc of the lower highway and the immediately adjacent buildings. The proposed design would represent a reasonable development density and a contemporary interpretation of a substantial 'villa' with sufficient articulation within its front elevation to alleviate the overall mass of the structure in a manner that would enhance the immediate mediocrity of its current surroundings."

As this appeal decision was a material consideration carrying a high degree of weight at the time, the subsequent planning applications made for the same/similar buildings in 2008/2009 were approved.

The appeal decision was made in January 2008 at which time the relevant planning policy context comprised: the current Adopted Local Plan; the Urban Design Guide SPD (May 2007); chapters 13-19 of the Environmental Guide SPG (Sept 2004); and national advice contained within various PPGs/PPSs. This national advice has now been abolished and replaced by the NPPF. The Inspector did not reference the Urban Design Guide SPD in his decision and instead referenced the Environmental Guide SPG, which appears to have been an oversight.

The current planning policy context comprises: the new Local Plan (2012-2030) and national policies and advice contained within the NPPF and online Planning Practice Guidance (PPG) respectively. A recent appeal decision (APP/X1165/W/15/3006520) received on 12 November 2015 to dismiss a block of flats on the Gleneagles Hotel site affecting the setting of an adjacent conservation area is a material consideration and that] there is evidently now a greater focus on taking opportunities to improve the character and quality of an area.'

An application to extend the time limits to implement planning permission P/2009/0281 was approved in September 2012. This took into account the policies in the NPPF. It also took into account national guidance within 'Greater flexibility for planning permissions' (CLG, Oct 2010) stating that 'local planning authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly.' This guidance was cancelled in 2014 and replaced by the online PPG.

The Senior Heritage and Design Officer has objected to the application highlighting the significance of Policy SS10 of the new Local Plan as a new material consideration. This policy requires development to sustain and enhance heritage assets, including conservation areas, which make an important contribution to Torbay's built and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay. It goes on to state that proposals that may affect heritage assets will be assessed on a range of criteria, including 'The need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, while allowing sympathetic development within them' and 'Whether new development contributes to the local character and distinctiveness of the area, particularly through a high quality of design, use of appropriate materials, or removal of deleterious features'.

The Old Paignton Conservation Area Appraisal notes that there are good quality buildings and settings on the periphery and identifies Villa development on or just off Southfield Road. Villa development generally offers principle buildings within good sized plots which, when grouped, presents an open and spacious character and verdant feel to an area. The character of such areas are as much about the space around buildings as the buildings themselves.

The Senior Heritage and Design Officer considers that the scheme, which lacks subservience to the principle building and affects the open spacious character of the plot, will not sustain or enhance the Conservation Area, but considers that the harm that will be caused is 'less than substantial'. In these cases, paragraph 134 of the NPPF states that 'this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The Senior Heritage and Design Officer notes that Historic England has raised similar concerns with the proposal. In their response, Historic England encourages the Council to consider the advice within paragraph 137 of the NPPF, which states that 'Local planning authorities should look for opportunities for new development within Conservation Areas... to enhance or better reveal their significance.'

Policies DE1 and DE4 of the new Local Plan are also considered to be material considerations. Policy DE1 emphasises the importance of local distinctiveness in design, and Policy DE4 states that new development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban design or socio-economic benefits to deviate from this approach. It is considered that there is nothing in the design that acknowledges the distinctive features of the Villa plot, for example the primacy of the Villa building and its spacious setting, that contribute to this area of the Conservation Area. The Urban Design Guide SPD is an important material consideration and states that 'Designers should use local materials, building methods and details where appropriate to help to enhance local distinctiveness' (Para A6). In terms of the height, whilst the proposed building is the same height as the existing building on the site, this is not the prevailing height of the locality which is 2-3 storeys. Officers consider that there are no sound urban design or socio-economic benefits that justify the height of the proposal. It is considered that the new building should be subservient in height to the existing 'host historic' building adjoining the site. The Urban Design Guide SPD states that 'Designers should consider the scale, massing and height of proposed development in relation to that of adjoining buildings; the topography; the general pattern of heights in the area; and views, vistas and landmarks' (Para A7).

As can be seen, this issue is finely balanced when taking into account all the material considerations above, including the new policies and previous decisions. It is clear that the Inspector for the 2007 appeal had a different view to the Council's conservation specialist of the effect of the scheme on the character and appearance of the Conservation Area. Whilst the appeal decision was made in January 2008, and the Inspector considered that the scheme would enhance the character and appearance of the Conservation Area, the planning policy context has changed since this time, including publication of the NPPF and emergence of the new Local Plan.

The main change to the policy context since this time with regards to design and heritage issues is the greater emphasis on enhancement and taking the

opportunities available to improve the character and quality of an area. It is clear that the Inspector believed this will be the case in 2007. However, officers are mindful that the scheme has not gone before Torbay's independent Design Review Panel, as endorsed by the NPPF (Para 62), and Historic England has raised concerns; in addition Historic England state that they were not consulted on the original 2009 application. Therefore, officers consider the application should be refused, as it is considered that it will not sustain or enhance the character of the Conservation Area, contrary to Policy SS10 of the new Local Plan. It is also considered that it has failed to take the opportunities available for improving the character and quality of the area (NPPF Para 64), and the proposed design does not contribute to the distinctiveness of the area (new Local Plan Policies SS10 and DE1). It also does not follow the lower prevailing building height of the locality (new Local Plan Policy DE4).

Officers consider the scheme will cause 'less than substantial harm' to the Conservation Area. Paragraph 134 of the NPPF requires this to be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case, officers consider that there are few public benefits of the scheme that would not outweigh this harm. Whilst the delivery of new dwellings is a positive impact, there is no reason why an alternative, lower density scheme which does not cause harm to the character and appearance of the Conservation Area could not be developed on the site with similar benefits.

Officers took a different view when the application to extend the time limits to implement planning permission P/2009/0281 was approved in September 2012. At this time, officers considered that the scheme would not have a significant impact on the Conservation Area, taking into account Section 12 of the NPPF. However, this pre-dated the appeal decision for the Gleneagles Hotel, which is a material consideration, and the policies of the new Local Plan. It also took into account guidance at the time, encouraging local planning authorities to take a positive approach towards 'extend the time limit' applications which improve the prospect of sustainable development being taken forward quickly. This has not happened in this case, as the scheme remains unimplemented.

4. Amenity Issues

The issues of overlooking and overshadowing have been raised as concerns by a number of local residents, particularly those living at Kirkham Court to the west. There are a number of windows on the west elevation of the proposed building, including 'habitable rooms', such as bedrooms and living rooms.

Officers are mindful that this issue was assessed for the previous applications and has not been raised as an issue by the Council before. The proposal has been re-assessed against Policy DE3 of the new Local Plan. Therefore,

Policy DE3 of the new Local Plan deals with development amenity. It states that 'All development should be designed to provide a good level of amenity for future

residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses'. Relevant criteria when assessing amenity issues include: 'Satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling' and 'Provision for useable amenity space, including gardens and outdoor amenity areas'.

A refuse bin area is proposed adjacent to the new building and, when considering the access and turning opportunities on the site, it is unlikely that commercial waste vehicles will be able to safely enter and exit the site. The expectation of providing individual domestic bins that are taken to curb-side presents its own problem in terms of the safety of wheeling bins down a relatively steep drive, the impact on highway users of bins left on the pavement and the temporary parking of the collection vehicles. The impact on the conservation area of street clutter of household bins is also a concern, as there is the potential for 23 households to be provided with inadequate collection potential on site.

In terms of the provision of useable amenity space, whilst the existing grassed area is sloping, it provides a relatively large area for the occupiers of the existing flats to use for recreation purposes or to dry clothes etc. Whilst some space will be left over behind the proposed new building the amenity area is greatly reduced whilst the number of units to which it will serve greater increased. Considering the topography of the site, the proximity of the space to the proposed building and potential shading from the building, officers do not consider that the residential amenity space is of sufficient quality to serve the amenity needs of both buildings. This issue should form part of the rationale for a revised design on the site.

In regard to other matters the quantum of development that is sought appears to, in-part, compromise the quality of certain residential units. To the front of the building the proximity of bedroom windows to the parking area is immediate with no defensible space to provide relief in terms of noise or light disturbance. Certain units will also be provided with car parking spaces with inadequate manoeuvring space behind them, notably spaces 10, 11 and 12 as referenced on plan.

5. Access and Impact on Highways

Comments received from the Council's Strategy and Project Delivery Team / Highway Department raise a number of highway issues.

Concern has been raised over the gradient of the proposed access the proposed driveway access would present a gradient of 1:7. The Council's Highway Design Guidance (2015) details that maximum allowable gradient is 1:8 and consideration on how to meet this should be explored.

In addition there is concern that commercial vehicles might not be able to access

the site and turn through 180 degrees and exit the site in a forward gear. The applicant should submit tracking diagrams to show this, in order to establish the likelihood of commercial delivery vehicles and/or waste collection vehicles could enter and service the site.

At present the gradient of the access does not meet Council highway standards and it has not been proven that large commercial vehicles could safely access and exit the site in a forward gear,

There is note that the previous permissions were agreed subject to s278 highway works to the junction of Southfield Road and Colley End Road, to slow the traffic in the interests of safety on a bend where vehicle movements in and out of a residential access would be increased. There is no apparent condition to enter in to a s278 highway agreement to achieve these works in the 2012 permission and therefore it is considered unsuitable to seek such works.

Until the above matters have been resolved the proposal is considered unacceptable on highway and movement grounds.

6. Car and Cycle Parking

The proposed level of car parking provision is considered by officers to be acceptable. 1:1 parking is proposed for the existing and new flats, and three spaces will be provided for the adjoining development site of three dwellings fronting Colley End Road. This level of provision accords with Policy TA3 of the new Local Plan, except provision is not made for commercial vehicles.

The Council's Strategic Project Delivery Team and Highway Department advises that one disabled parking space, is acceptable in the circumstances. The size of the space identified does not however meet the Council guidelines and is hence considered unacceptable.

In regard to parking although highway comments support the level of provision it is considered that the proposed disabled parking space is inadequate in terms of its size and also the manoeuvring space behind spaces 10, 11 and 12 is inadequate and does not accord with the 6m that is detailed in highway guidance. The parking layout and arrangement is considered unsatisfactory in terms of the space afforded the disabled space and the manoeuvring space to get in and out of certain spaces.

One safe covered and secure cycle parking should be provided for each unit and, although there is an identified space, it is unclear that the provision is sufficient

The proposal does include the provision of one electronic charging point, which is advised as necessary to accord with policy.

The current proposals are considered contrary to policy guidance and until these

matters are resolved the proposal is not considered acceptable on parking grounds.

7. Impact on Trees

There is a mature Cherry tree on the site to the west of the existing car park. Officers consider this to be an attractive feature of the site that should be retained and protected.

The Council's Arboricultural Officer considers the scheme is suitable for approval on arboricultural merit provided this tree is protected during construction and additional tree planting is provided as part of detailed landscaping proposals.

In terms of tree cover the site is largely absent of specimens and hence there is considered to be scope to increase the number of trees on the site. Scope is likely to be limited to the rear of the proposed building however, which will limit the wider prominence and visual amenity value of these.

These matters can be dealt with by condition if the application is approved.

8. Biodiversity

Whilst the Green Infrastructure Coordinator has questioned whether an Extended Phase 1 Habitat Survey should be submitted, as the site comprises an area of short amenity grassland and parking court, officers did not consider that this was a requirement when the application was submitted due to the absence of habitat value beyond grassed amenity lawn.

No information has been provided to show how biodiversity will be enhanced on the site in accordance with the NPPF and Policy NC1 of the new Local Plan.

Given the planning history of the site, officers consider this could be dealt with by condition if the application is approved, such as the incorporation of bird nesting and bat roosting sites into the built fabric of the building, and additional planting as part of detailed landscaping proposals.

9. Surface Water Drainage and Flood Risk

Since the previous applications were determined, the majority of land in Torbay has been designated a Critical Drainage Area (CDA) by the Environment Agency. New Local Plan Policies align with the CDA designation and the sensitivity of surface water management within Torbay and detail that development must maintain or enhance the prevailing water flow on-site. Policy ER2 iterates that all development should minimise the generation of increased run-off and outlines a drainage hierarchy.

Detailed drainage proposals must now form part of planning application submissions accordingly. These should investigate the practicality of sustainable drainage systems as a first priority, by undertaking infiltration testing of ground

conditions on the site.

In this case a Flood Risk Assessment (FRA) has been submitted. It states that 'The potential for adding to flood potential elsewhere in the town is significant and must be addressed prior to work starting on site. Sustainable drainage systems must be incorporated which will include the use of soakaways, self draining paving and soft landscaping to eliminate the potential for surface water to leave the site'. No further details are provided, including details of any infiltration testing of the site.

The FRA states that 'percolation tests will need to be undertaken in the areas likely to take any such soakaways and this is presently not possible due to existing use of the land...'. It goes on to say this should be covered by planning condition. No further information or justification is provided why infiltration testing cannot be carried out before planning permission is granted. Having visited the site, officers do not see any practical reason why infiltration testing cannot be carried out.

Therefore, officers consider that insufficient information has been provided to demonstrate that the proposal will not result in downstream flooding within the CDA. The application should therefore be refused in accordance with Policy ER1 and ER2 of the new Local Plan, and paragraphs 102 and 103 of the NPPF.

S106/CIL -

The contributions for the application are set out below, in accordance with new Local Plan Policies SS7 and the adopted Planning Contributions and Affordable Housing SPD and its Update 3.

Waste Management (Site Acceptability) =	£600
Sustainable Transport (Sustainable Development) =	£20,640
Education (Sustainable Development) =	£4,920
Lifelong Learning (Sustainable Development) =	£2,640
Greenspace and Recreation (Sustainable Development) =	£13,440
 TOTAL =	 £42,240

Justifications:

The waste management contribution is justified in paragraph 2.18 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policy W1. It will pay the costs of providing waste and recycling bins to the dwellings.

The sustainable transport contribution is justified in paragraphs 4.12-4.24 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and TA2. It will be used to pay for sustainable transport network enhancements in the local area for use

by future occupiers/visitors of the proposed development.

The education contribution is justified in paragraphs 4.40-4.46 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards funding projects at schools in Paignton as part of Children's Services Capital Programme. The dwellings will place additional demand on local schools and the contribution will ensure local schools are provided with funding to mitigate the proposed development.

The lifelong learning contribution is justified in paragraphs 4.47-4.51 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS10. It will be used towards the cost of improving provision at Paignton Library, including IT equipment. The dwellings will place additional demand on the services provided by Paignton Library and the contribution will ensure these services are provided with funding to mitigate the proposed development.

The greenspace and recreation contribution is justified in paragraphs 4.52-4.58 of the Planning Contributions and Affordable Housing: Priorities and Delivery SPD (LDD6), and accords with new Local Plan Policies SS7 and SS9. It will be used towards improving maintenance, management and equipment at existing facilities within easy walking distance of the site. The dwellings will place additional demand on these facilities and the contribution will ensure these facilities are provided with funding to mitigate the proposed development.

Status

As officers are recommending refusal of the application, Legal Services has not been instructed to prepare a s106 agreement.

Conclusions

The principle of developing the site for housing is considered to be acceptable. However, notwithstanding the planning history of the site where applications for the same or similar development have been approved, officers consider the design of the proposed development to be unacceptable and would harm the character and appearance of the Conservation Area. The design lacks distinctiveness and the height does not fit in with the prevailing height of buildings in the area. It is considered that the benefit of providing new housing on the site does not outweigh the harm to the Conservation Area, as a result of the poor design. A lower density development could provide similar benefits without harming the character of the Conservation Area. Furthermore, it is considered that there is limited useable amenity space in the proposal to serve residents of the proposed flats and the existing flats adjoining the site. Therefore, the application should be refused in accordance with Policies SS10, DE1, DE3 and DE4 of the new Local Plan.

Insufficient information has been provided with the application to demonstrate that the proposal will not result in downstream flooding within the Critical Drainage Area. Furthermore, there is a lack of detail and justification within the submitted Flood Risk Assessment why infiltration testing of the site cannot be carried out before the application is determined in order to investigate whether a sustainable drainage system is feasible in accordance with local and national guidance. Therefore, the application should be refused in accordance with Policy ER1 and ER2 of the new Local Plan and paragraphs 102 and 103 of the NPPF.

In addition, the gradient of the driveway exceeds the maximum allowable specified in the Council's Highway Design Guidance (2015), insufficient information has been submitted to demonstrate commercial vehicles can access the site and the level of disabled parking, cycle parking, manoeuvring space and lack of provision of an electronic charging point, is contrary to policy guidance.

If Members consider that the application should be approved, officers should be instructed to secure affordable housing provision from the development, in accordance with policy, as well as other contributions to mitigate development impacts - as detailed in this report. In addition, the drafting of appropriate planning conditions should be delegated to officers.

Condition(s)/Reason(s)

01. The proposed development will not preserve or enhance the character of the Conservation Area contrary to Policy SS10 of the Torbay Local Plan 2012-2030. It fails to take the opportunities available for improving the character and quality of the area in accordance with paragraph 64 of the NPPF. The proposed design is not distinctive to the character of the area contrary to Policies SS10 and DE1 of the Torbay Local Plan 2012-2030. The proposal does not fit in with the prevailing building height of the locality contrary to Policy DE4 of the Torbay Local Plan 2012-2030. The benefits of the proposal do not outweigh the impacts of the scheme on the character of the Conservation Area. Furthermore, the level of useable amenity space is considered inadequate for the occupiers of the proposed flats and the existing flats adjoining the site contrary to Policy DE3 of the Torbay Local Plan 2012-2030.
02. There is a risk the proposal will result in downstream flooding from an increase of impermeable area on the site. The site is within the Critical Drainage Area and no details have been provided with the application to demonstrate that this will not be the case. The Flood Risk Assessment lacks adequate detail and justification why infiltration testing cannot be carried out to investigate whether a sustainable surface water drainage system is feasible on the site. Therefore, the proposal does not accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030, or paragraphs 102 and 103 of the NPPF.

03. The proposal fails to provide confirmation that the site can be safely serviced by large vehicles entering and exiting the site in a forward gear, and also fails to provide an access gradient in-line with Council standards and also fails to provide adequate disabled parking, cycle parking, manoeuvring space and electric car charging. The proposal is considered to conflict with Policies TA1, TA2 and TA3 of the Torbay Local Plan 2012-2030

04. No s106 agreement has been prepared to secure the necessary affordable housing provision or the necessary planning contributions, in accordance with the Council's Planning Contributions and Affordable Housing SPD, Policy H2 AND Policy SS7 of the Torbay Local Plan 2012-2030. The Local Planning Authority considers that it would be inappropriate to secure the required affordable housing and contributions by any method other than a legal agreement and therefore the proposal is contrary to Policies SS7 and H2 of the Torbay Local Plan 2012-2030.

Relevant Policies

- SS1 - Growth Strategy for a prosperous Torbay
- SS3 - Presumption in favour of sustainable dev
- SS7 - Infrastructure, phasing and employment
- SS8 - Natural Environment
- SS9 - Green Infrastructure
- SS10 - Conservation and Historic Environment
- SS11 - Sustainable Communities Strategy
- SS12 - Housing
- SS13 - Five Year Housing Land Supply
- SS14 - Low Carbon and Climate Change
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 - Parking requirements
- C4 - Trees, hedgerows and natural landscape
- NC1 - Protected sites - internationally import
- H1 - New housing on identified sites
- H2 - New housing on unidentified sites
- DE1 - Design
- DE2 - Building for life
- DE3 - Development Amenity
- DE4 - Building heights
- SC1 - Healthy Bay
- ES1 - Energy
- ER1 - Flood Risk
- ER2 - Water Management