

**P/2010/0616/MPA**

**Churston With Galmpton Ward**

**Land Adjoining Cayman Golf Course, Dartmouth Road, Churston, Brixham**

**Formation of combat games area with car parking, administration building with changing/toilet facilities Revised plans received now showing new layout for site, further details of structures (including heights and materials) and additional landscaping and screening**

### **Site Details**

Area of land located to the north east of Dartmouth Road in between the Cayman Golf complex, the Go Kart track and the Council's park and ride facility. The site is bordered on its eastern edge by Elberry Lane.

### **Relevant Planning History**

- P/2000/0058 Change of use of former park and ride field into an extension to Cayman Golf. Conditional Approval – 3rd April 2000.
- P/2002/0876 Retention of office and W.C. on the field adjacent to the Go Kart track. Conditional Approval – 1st August 2002.
- P/2003/0051 Erection of multi-use sports and football facility with associated work and landscaping on field adjacent to the GO Kart track. Refused 30th April 2003.
- P/2003/1626 Erection of multi-use sports and football facility with associated works and landscaping. Conditional Approval – 23rd December 2003.
- P/2006/0129/R3 Temporary park and ride facility for 300 vehicles for 4 years from 1st April 2006 with temporary buildings. Conditional Approval – 3rd April 2006.
- P/2010/0260 Renewal of application P/2006/0129/R3 for existing temporary park and ride facility with an extension of boundary and an increase in capacity from 300 vehicles to 800 vehicles. Application withdrawn April 2010.
- P/2010/0444 Change of use for temporary park and ride facility for 300 vehicles with temporary buildings to run until 30th June 2012. Conditional approval granted 18th May 2010.
- P/2011/0138/AD Non Illuminated advertisement sign for the use proposed with this current application. Application withdrawn by agent's letter dated 21st March 2011.

### **Relevant Policies**

*Saved Adopted Torbay Local Plan 1995-2011*

- RS Recreation and Leisure Strategy
- R2 Outdoor Recreation Developments
- LS Landscape Strategy
- L4 Countryside Zone
- L8 Protection of Hedgerows, Woodlands and other Natural Landscape Features
- L9 Planting and Retention of Trees
- L10 Major Development and Landscaping
- NC5 Protected Species
- T25 Car Parking in New Development
- T26 Access from the Development onto the Highway

### **Proposals**

This application was originally presented to Members at their meeting on 4th October 2010, and sought permission for a change of use of the land into a combat games area together with associated structures and ancillary features. The method of gaming would be with the use of infra-red technology and not the more conventional paint-balling or laser guns.. Members resolved to approve the application at that meeting, subject to conditions and subject to satisfactory further negotiations with Natural England (NE) and the Royal Society for the Protection of Birds (RSPB) and the imposition of any conditions these agencies deemed necessary. The permission was never issued, because it took

some time to clear the phase 1 habitat survey (regarding wildlife) with Natural England. This has however now been achieved, and Natural England no longer object to the scheme, so long as all works are completed in accordance with the agreed habitat survey. The RSPB have indicated that they support the recommendations made in this document as well, but that conditions may be required to secure restrictions regarding timing of any site clearance works and the appropriate management of habitats.

Since Members' meeting in October last year the applicant has proceeded to commence the works to implement the scheme, albeit that the formal planning consent has not been issued. The applicant is fully aware that he is proceeding at his own risk. In doing so the applicant has also proceeded to considerably alter the layout of the scheme and erect structures on the site, the details of which have not been approved by the Local Planning Authority. Following further negotiations on site, revised plans have been submitted to reflect the revised layout and design of the scheme. The application still needs formal determination.

This application was presented to Members at their February 2011 meeting after which and following instruction, a formal stop notice was served which is now in force. Concurrently, an Enforcement Notice has also been served ordering the removal of all unauthorised works from the site and the land reinstated to its position before these works were undertaken. This notice has not been appealed and so took effect on the 25th March. The applicant has until 25th April to comply or else the matter would become a criminal offence. The Council would withdraw the notice if planning permission was granted in the interim.

The application was again presented to Members at their last meeting on 21st March, when it was resolved to defer the application again to allow officers to undertake further negotiations and try to resolve the outstanding issues.

The fact that Members resolved to approve the principle of this scheme in October 2010 is a material consideration in this case and, as such, it is predominantly the detailing of the proposed structures and their revised positioning within the site that is now submitted for consideration. Hedging and landscaping is also indicated, particularly around the boundaries to the site, and this detail has been examined by the Council's Urban Design and Landscaping Officer. The proposal includes changing facility buildings, septic tank and soakaways. Parking will be immediately adjacent to the existing car park serving the Cayman Golf Facility, which is within the same ownership. The parking area will be treated in the same way as the park and ride, with the use of grasscrete to retain a green landscaped area and with the use of a low-level entrance barrier.

### **Consultations**

*Natural England:* Originally recommended refusal on the basis of the likely incidence of protected species in and around the site. However, the applicant has produced the relevant survey information and on that basis Natural England no longer objects, provided that the copse/orchard on the site is not used as part of the gaming area.

*RSPB:* Concerned about potential impact upon Cirl Buntings, but supports the recommendations made in the consultant's wildlife report. Full comments reproduced at page B ???.

*Highways Authority:* Raise no objection.

*Arboricultural Officer:* States that there are no tree constraints as part of the scheme, but asks for a detailed landscaping scheme with a management plan for a 10 year period, to ensure establishment of screen planting. The landscaping scheme has been negotiated and submitted and the management can be dealt with by way of a condition. The landscaping officer has confirmed that the planting that has occurred on site is in accordance with his requirements, although more will need to take place in order to ensure full compliance.

*Strategic Transportation:* No basic objection, but asks for secure lit and covered cycle parking.

*Brixham Town Council:* Recommends approval subject to environmental considerations.

## **Representations**

Concerns have been raised regarding the visual impact of the proposed scheme, representations have been reproduced at page B.1.

## **Key issues/Material considerations**

### *Principle and Policy*

Members will recall that they have already considered and resolved to approve the use at their meeting in October last year. That was subject to wildlife considerations which have now been resolved satisfactorily. It was also subject to conditions, one of which was to have sought details of the structures required as part of the gaming experience. Nothing has changed regarding the suitability of the use proposed since Members' consideration in October 2010. Also, it will be noted that the land has had the benefit of permission in the past for sport uses on this site (2003) and although that permission has lapsed and was unimplemented, it does establish that the principle of a sporting use for the field has been accepted in the past. This is also a material consideration. The crucial consideration now is that details have been submitted of the structures and man made features on the site, and given the concerns raised about the structures that have been erected on the site already, it is important to get this detail right in order that the structures can be assimilated appropriately into the landscape.

In approving the scheme previously, it was recognised that the land is identified within the Saved Adopted Torbay Local Plan as being within a Countryside Zone, but that it has no other landscape designation. The site boundary with Elberry Lane is the boundary with the Churston Conservation Area, although with only open fields beyond, it is unlikely that this development would adversely impinge upon the Conservation Area, which is primarily designated to conserve the built environment.

In terms of policy L4 (Countryside Zone), there are a number of exceptions which the policy states will be acceptable within the Countryside Zone so long as the rural character, wildlife habitats and any historic features are not adversely affected. One of those exceptions is development associated with outdoor sport and recreation, and therefore the use now proposed would not be contrary to policy L4. This is provided that the detail of the proposed structures is appropriate for this substantially rural location.

This scheme will provide a valuable tourism and leisure facility to support the existing provision in this area (Go Karts, Caymen Golf, Farm shop). It will therefore bolster visitor and tourist attractions within the Bay. The development will also bring a sports and recreation use for the benefit of many young people in the area. Currently, the nearest similar facility is in Newton Abbot.

## **Primary Considerations**

In the light of the above, the primary issues that Members are asked to consider are:-

- 1) The nature and appearance of the structures and facilities at the site, for which detailed and further information has now been submitted, and;
- 2) whether the landscaping proposed, which has now been improved and expanded from that previously submitted, is appropriate to screen the structures and assimilate the scheme into the landscape setting.

### *1) Structures*

The principle structures proposed are 3 forts, a structure replicating a bombed building, tunnels, a safety marshall outpost, 3 land rovers, induction tents and reception portakabins. These are all structures that are considered to be essential for the gaming facility. It should be noted that the most prominent 'fort' set closest to the main road, has now been remodelled from its originally proposed (and built) two-storey square appearance, to a single storey but larger footprint. This alteration was undertaken by the applicant following negotiation with officers. It is considered by officers that the changes made now considerably reduce the impact of this structure, this is combined with the change

in the colour of the fort nearest the road, which again reduces its visual prominence.

It is important to note that Officers have clearly stated that if approval were to be granted, then all of the structures would need to be painted in camouflage colours of greens and blacks in a 'disruptive' pattern. Some of this has already occurred on-site. In addition, landscaping is proposed, which has been specifically sited to provide additional screening of the site from the areas around. This would take some years to become fully effective, and temporary fence screening is proposed in the interim. The principal objective is to ensure that the structures are recessive in the landscape and that the landscaping provides appropriate additional screening befitting of this rural setting. At the last meeting of the Committee, it was mooted that the proposal might be better assimilated into the landscape if some of the structures were removed from the site, thereby lessening the impact of solid man made structures. However, the applicant has responded by saying that the structures indicated on the plans are all required in order to ensure a worthwhile and suitable gaming experience.

Officer's opinion is that subject to changes to the colour of all of the structures to make them more recessive, the proposal could be sufficiently screened and successfully assimilated into the landscape. The details of the temporary screen fencing currently submitted have gone a long way to alleviate Officers' concerns in this regard. It is intended that the hedging proposed would eventually grow to a height and thickness such that the temporary screening would not be necessary, but would remain on site to provide a barrier to the infra-red gun system.

## *2) Landscaping*

This is an important aspect of the proposal, as it will determine the appearance of the site, its assimilation into the landscape, and the degree of prominence of the structures on the site. Officers have negotiated a mix of primarily native species of trees and hedging, incorporating repairs and infilling to the existing boundary hedging, although tall 'extra heavy standards' are proposed which will give some immediate cover, it must be borne in mind that complete screening would take a number of years. Some of the trees required have already been planted on site in advance of formal approval, but consent is not normally required for planting and the applicant is aware that he has proceeded at his own risk. It is also worthy of note that the original intention to provide a vehicular access to the site near the entrance onto Brixham Road has been removed and this area is now to be banked and planted up to complete the landscape screening of the games area.

Officers are of the opinion that the landscaping scheme could work and would be likely to provide the intended screening and assimilation into the natural environment in the longer term. It is considered that the hedging to be provided on top of the sculptured mounding as shown at the Brixham Road frontage to the site, should continue along the western edge of the game area up to the car park. The plans would need amending in this regard. In the short term until the tree screen and hedging becomes mature, the 'hit and miss' fence screening now suggested by the applicant would provide suitable visual protection if continued around all open boundaries to the site.

## *Ecology & Landscape*

In reaching the decision to approve the scheme last October, it was recognised that, in policy terms, there are no objections to the proposal so long as the scheme can be assimilated into the landscape and so long as any potential impact upon protected species can be mitigated.

The applicant has now provided the information required by Natural England. On this basis, there are no objections under adopted Nature Conservation policy NC5. Furthermore, subject to a satisfactory management plan, the landscaping proposed will provide suitable screening and mitigation for the proposed use in the longer term. In addition, screen fencing is proposed to assist in the shorter term.

Officers are of the opinion that the site could be screened appropriately on site so that the use was assimilated into the countryside setting. The further information now submitted on the temporary fence screening does attempt to achieve this and officers consider that the latest submission is a distinct improvement that could meet concerns raised in this regard.

### *Traffic and Parking*

It is noted that the Highway Authority have no objections. However, Strategic Transportation asks for cycle parking and a staff/visitor travel plan. These can be dealt with by condition.

Parking is indicated for the grassed land next to, but separate from the Cayman Golf car park. The surfacing of this area is intended to be grasscrete rather than tarmac or hard surfacing to blend in with the natural environment. The access is clearly suitable as it is a traffic light controlled junction also serving the Council's park and ride facility. On this basis, traffic and parking issues are considered to be acceptable.

### **Sustainability**

This was in planning terms a green field site (the previous permission for sporting use having time expired) and it could be argued that its location would not therefore be sustainable. However, this kind of use would be beneficial to the holiday and leisure trade of Torbay, it would not be appropriate within a built up urban area, and the land is located between existing sporting facilities, the park and ride area and existing properties in Churston village. The site is therefore considered to be an appropriate and sustainable location for the proposed use. Furthermore, because the land would need to be heavily landscaped and should still retain most of its rural feel, it is not considered that there are any issues with sustainability that indicate that the application should be refused.

### **Crime and Disorder**

This is not considered to be a significant issue, so long as the applicant utilises security and safety devices for any buildings and facilities at the site.

### **Disability Issues**

The land is entirely flat and therefore there are no difficulties with access. Whether or not those with disabilities would actually want to use the facility is another issue which is not really within the control of the Planning system to consider.

### **Conclusions**

On many of the primary issues with this application, there would appear to be no overriding objections. On highways grounds, it is noted that the Highways Authority are not objecting and Strategic Transportation suggest that the application could be approved with suitable conditions. In policy terms, the proposal is not contrary to the relevant policies of the Saved Adopted Torbay Local Plan, provided the landscaping and wildlife issues are satisfactorily resolved by condition. Natural England has now withdrawn their objections.

On the substantive outstanding issues of landscaping and design, a further meeting took place with the applicant last month when it was made clear what would be required in order for a positive recommendation to be made to Members.

The crucial items discussed were:-

- The exact nature and composition of the temporary screen fencing.
- The exact colour and finish for the building blocks used to form the structures, some on site have been painted using recessive colouring of green and black. Officers consider that this works much better than the original grey colour.
- A schedule of gaming items and structures noting which are to be fixed and those that are to be 'moveable' along with their design, colour, texture and size.
- Details of the grass or other natural surfacing for the vehicle parking area.
- Confirmation that no structure on site (other than the Marshall's post) is to be over 2.6 metre in

height.

- Information demonstrating the appearance of the facilities buildings and tented structures and a further visual impact assessment of the development

Provided the details requested above are acceptable, officers consider that the scheme could be suitable for planning approval. Officers are of the opinion that the basic use is acceptable in policy terms, and Members indicated agreement to this at their meeting last October. However, it is worthy of note that the Local Planning Authority has not granted permission for this development (no decision notice has been issued) and were members to remain unconvinced about the details now being shown, they would still be in a position to refuse the application. The previous decision made at committee in October 2010, whilst being a material consideration does not bind the Authority to continue in the same course of action, this is especially true given the new information available about the design of the scheme and given the changes that have been made to the layout.

### **Recommendation**

Conditional Approval; Subject to receipt of satisfactory revised plans to show the planting of hedging along the top of the full extent of the proposed banking. Conditional Approval

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

01. All of the man made structures on the site, excluding the Marshall's post, the bunding, and the boundary fencing, shall be painted in camouflage colours of greens and blacks in a 'disruptive' pattern in accordance with a scheme that shall first have been submitted to and approved by the Local Planning Authority. All painting required by this condition shall be completely finished in accordance with the approved details before the site is first used or opened to members of the public, whichever is the sooner.

Reason. In order to protect the visual amenities of this area of Countryside Zone adjacent to the Churston Conservation Area, in accordance with the objectives of policies TU3(3, 4 and 5), RS, R2 and L4 of the Saved Adopted Torbay Local Plan.

02. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out before the proposal hereby approved is first opened to the public, or at such other time as agreed by the Local Planning Authority in writing, and any trees, hedging or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. All of these factors make it imperative that the proposal is appropriately screened and landscaped in order to prevent potentially damaging and visual insensitivity in the landscape and to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

03. The landscape works approved as part of the development shall be managed in accordance with a Landscape Management Plan/Schedule for a period of 10 years from the first public use of the site and this plan shall first have been submitted to and approved by the Local Planning Authority prior to the first public use of the site.

Reason: To ensure establishment of planting in the interests of visual amenity and to comply with the objectives of Policies H9, L8, L9 and BE2 of the saved adopted Torbay Local Plan 1995-2011.

04. The proposal hereby approved shall be carried out entirely in accordance with the 'Reptile Survey', report no. 10/100b, dated September 2010 and the 'Ecological construction method statement', report no.10/100arev01, dated December 2010. The specifications and recommendations of these two reports shall be strictly adhered to and carried out in full as prescribed.

Reason: The site is located outside of the built environment of Paignton and Churston in highly visible open countryside, immediately adjacent to the Churston Conservation Area and opposite a designated 'Area of Great Landscape Value' as defined by the Saved Adopted Torbay Local Plan. The site is also known to be used by species of wildlife protected in law. All of these factors make it imperative that the proposal is implemented entirely in accordance with the two specialist reports in the interests of wildlife, public amenity and to order to ensure accordance with policies RS, R2, LS, L2, L4, L8, L9, L10, NCS, NC5, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

05. The use hereby approved shall not be used on any day during the British 'lighting-up time', defined as from one half-hour after sunset to one half-hour before sunrise.

Reason: To prevent the use occurring during the hours of darkness when activity, lighting and noise would present detrimental problems to wildlife, local residents and other amenity concerns contrary to policies R2, L4, NC5, EP4 and EP5 of the Saved Adopted Torbay Local Plan.

06. Prior to the first use of the site for combat gaming, or at such other time as may be agreed in writing by the Local Planning Authority, a comprehensive staff and visitor Travel Plan shall be submitted to and agreed in writing with the Local Planning Authority. The use of the development, hereby approved, shall thereafter accord with the provisions of the approved Travel Plan.

Reason: In order to ensure that the development complies with policies TS, T1, T2, T3, T7, T25, T26 and T27 of the saved adopted Torbay Local Plan (1995-2011).

07. No structure, sculpture, artefact, furniture, vehicle or other form of apparatus other than those shown on the plans and details, hereby approved, (DRAWING NUMBERS TO BE REFERENCED HERE) shall be placed on the site without the prior consent of the Local Planning Authority in writing.

Reason: In order to protect the visual amenities of this area of Countryside Zone adjacent to the Churston Conservation Area, in accordance with the objectives of policies TU3(3, 4 and 5), RS, R2 and L4 of the Saved Adopted Torbay Local Plan.

08. No structure, man made feature or other artefact, except the Marshall's watch tower, shall have a height greater than 2.6 metres above a defined point off site (e.g. gully or kerb), and that point shall first be agreed with the Local Planning Authority as a Temporary Bench Mark before the public use of the site is commenced.

Reason: In order to allow the Local Planning Authority to maintain control over the height of such structures as a means of ensuring that the use is always assimilated appropriately into the landscape minimising any potentially harmful visual intrusion in accordance with policies TU3(3, 4 and 5), RS, R2 and L4 of the Saved Adopted Torbay Local Plan.