

Minutes of the Planning Committee

29 April 2024

-: Present :-

Councillor Maddison (Chairwoman)

Councillors Billings (Vice-Chair), Mandy Darling, Fox, Pentney, Tolchard, Virdee, Brook and Strang

(Also in attendance: Councillors Fellows, Barbara Lewis, Chris Lewis, Spacagna, David Thomas, Jacqueline Thomas and Tyerman)

52. Minutes

The minutes of the meeting of the Committee held on 2 April 2024 were confirmed as a correct record and signed by the Chairwoman.

53. Land to the Southwest of Copythorne Road, Brixham (P/2023/0480)

The Committee considered an application for outline planning for the erection of up to 77 dwellings, including affordable housing (35%), areas of open space (including public park), landscaping, biodiversity net gain and site infrastructure, with all matters reserved apart from access. The application was accompanied by an Environmental Statement. The application was a departure from the Development Plan.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mrs Jackie Stockman addressed the Committee against the application. Mr Andrew Rowe addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Tyerman addressed the Committee against the application.

At the meeting the Planning Officer advised, that since the report had been published one letter of support had been received based on the provision of additional housing and further comments from the Council's Strategic Planning Team had resulted in a slight amendment to the officer recommendation contained within the submitted report.

Resolved (unanimously):

That the application be refused for the following reasons:

1. Conflict with the Development Plan

The site lies within the South Devon National Landscape, is outside of the settlement boundary of Brixham and in the open countryside, is not within an identified Future Growth Area, and is not allocated for housing within the Torbay Local Plan or Brixham Peninsula Neighbourhood Plan. In the context of the site the development, which is a major housing scheme, is considered to be in significant and overriding conflict with the Development Plan and guidance contained within the NPPF regarding Valued Landscapes. In the absence of exceptional circumstances and a demonstration that the development is in the public interest, and in the absence of other material considerations that indicate that the development plan should not be followed, the development is considered contrary to Policies SS2, SS3, SS8, SDB1, SDB3, C1 and H1 of the Torbay Local Plan, Policies BH4, BH9, E1 and E2 of the Brixham Peninsula Neighbourhood Plan, and guidance contained within the NPPF, notably Paragraphs 11, 12, 14, 180, 182 and 183.

2. Impact on the South Devon National Landscape

The development, by reason of its major scale and expected form as a housing scheme, and its location within the South Devon National Landscape, would have a significant detrimental impact on the landscape character and scenic beauty of this part of the South Devon National Landscape, where the impact is not mitigated by exceptional circumstances and demonstrated it would be in the public interest. The proposal is therefore contrary to Policies SS2, SS3, SS8, SS11, SDB1, SDB3, DE1, C1, C4 and H1 of the Torbay Local Plan, Policies BH4, BH9, E1 and E2 of the Brixham Peninsula Neighbourhood Plan, and guidance contained within the NPPF, notably Paragraphs 11, 12, 14, 180, 182 and 183.

3. Lack of a Signed Section 106 Legal Agreement to secure obligations as identified

The proposal, in the absence of a signed S106 Legal Agreement, fails to secure the necessary mechanism to deliver site acceptability mitigation regarding ecology, acceptable levels of affordable housing, and sustainable development obligations regarding Public Open Space, Sport and Recreation, Sustainable Transport, Education, Lifelong Learning, Waste and Recycling, and Health contributions, together with the provisions for the maintenance of the public open space, play areas, public access routes, and transport plan monitoring obligations, contrary to Policies SS7, SS8, SS9, H2 of the Torbay Local Plan 2012-2030 and the adopted Planning Contribution and Affordable Housing SPD.

4. The proposal by nature of its scale and location would prejudge strategic decisions about the local need for housing in the Brixham peninsula, and the cost and scope for developing outside the designated area or meeting need in some other way, to a degree that would prejudice the outcome of the plan-making process. It thereby fails to meet the criteria set out in Paragraphs 50 and 183 of the NPPF.

(Note: Prior to consideration of the item in Minute 54, Councillor Billings declared a non-pecuniary interest as previous Vice Chair in relation to the neighbourhood plan which included an area relating to this application).

54. Land at Princess Gardens, off Torbay Road, Torquay (P/2024/0138)

The Committee considered an application for change of use of land for the temporary erection and operation of a 45m high observation wheel and ancillary development, for a one-year season (between the period of March to October 2024).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Mr Jon Pope addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillors Jackie Thomas, David Thomas and Chris Lewis addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published 8 letters of support had been received outlining that the observation wheel provided facilities, improved the tourism offer of Torbay, helped to provide jobs, that the benefits outweighed the harm and that previous applications had been considered acceptable. It would also provide money to improve the park and was a popular landmark feature.

Resolved (unanimously):

Approved subject to the following conditions:

1. Prior to the grant of planning permission, a Conservation Mitigation Obligation to the sum of £30,000 be secured through planning obligation, for pathway improvement works, and other works identified within the Princess Gardens Masterplan Update Report;

2. Time limit

The permission, allowing occupation of the site by the observation wheel and ancillary development, shall be for a temporary period only between the periods of March 2024 and October 2024 inclusive. The observation wheel and ancillary development shall be removed before 1st November 2024 and following removal the gardens shall be reinstated in accordance with details that shall have previously been submitted to and agreed in writing with the

Local Planning Authority. The agreed scheme of reinstatement shall be implemented in full within 10 days following the removal of the development.

Reason: The use of the site by the development is only acceptable on a short term basis and more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to Policies HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies TT2 and TE2 of the Torquay Neighbourhood Plan.

3. Hours

The observation wheel and the associated ancillary catering facilities shall only operate, and be lit, between the hours of 10.00 and 22.00 hours daily.

Reason: To ensure that disturbance to residents who overlook the site is minimised in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

4. Lighting

The development shall at all times accord with the approved lighting scheme. The development shall only be lit during the approved operational hours.

Reason: To ensure that disturbance to residents who overlook the site is minimised and to protect the wider visual character of the area, in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

5. Operational management plan (pre commencement)

Prior to the wheel arriving on site a traffic and operational management plan and details of the operational control during construction and dismantling, which shall include due consideration and information regarding the protection afforded adjacent trees during construction, operations and its removal, shall be submitted to and approved by the Local Planning Authority. The operation of moving the wheel onto and off the site shall accord with the approved details.

Reason: In order to protect the structural integrity of the site, in accordance with Policies C4, HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Torquay Neighbourhood Plan.

6. External storage

At all times there shall be no external storage, including waste storage (excluding reasonable customer-facing waste bins) within the site, ancillary to the development hereby approved.

Reason: To provide an acceptable form of development within the public setting of the Registered Park and Garden and Core Tourism Investment Area, in accordance with Policies DE1, DE3, T01, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

7. Means of enclosures

No additional means of enclosure other than those shown on the approved plans shall be erected in association with the development within the site.

Reason: To provide an acceptable form of development within the public setting of the Registered Park and Garden and Core Tourism Investment Area, in accordance with Policies DE1, DE3, T01, SS10 and HE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

8. Final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
9. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Chairwoman