

**Application Number**

P/2018/1136

**Site Address**Curtilage Of 1 Laura Grove  
Paignton  
TQ3 1LL**Case Officer**

Miss Emily Elliott

**Ward**

Preston

**Description**

Formation of dwelling &amp; garage.

**Executive Summary/Key Outcomes**

This proposal was considered at the February 2019 Development Management Committee. Members resolved to defer the decision to allow officers to obtain additional information about the proposal's impacts in relation to neighbouring occupiers. The additional information requested relates to the boundary treatment and ground levels, including datum levels in relation to the ridge height of the existing garage, the height of the proposed patio, the ridge height of the proposed dwelling, and the ridge height of No.1 Laura Grove.

The plans have been revised to include the datum levels referred to. In the interests of improving the proposal's impacts on neighbours, the revised plans also include the removal of three ground floor windows on the rear (eastern) elevation of the proposal and a reduction in the size of the patio area with the introduction of a conservatory instead. Additional information about the existing boundary treatment between the application site and the adjoining property will also be provided during the committee meeting.

The application site contains a large derelict garage and historically forms part the curtilage of No.1 Laura Grove, Paignton. The proposal seeks to form a detached, two-storey dwelling with an integral garage, to be accompanied by off-street parking space and an outdoor amenity area. The proposal is considered to be acceptable, having regard to the Local Plan and all other material considerations.

The application was originally referred to Development Management Committee due to the number of objections that have been received.

**Recommendation**

Approval subject to the conditions listed below, with the final drafting of conditions and resolution of any outstanding material matters that may come to light, to be delegated to the Assistant Director for Planning and Transport.

### **Statutory Determination Period**

8 weeks. The determination date was the 18th January 2019.

### **Site Details**

The site, curtilage of 1 Laura Grove, Paignton, is a detached residential property located on the corner of Laura Grove and Southfield Avenue. The site would have access from Laura Grove and would be sited next to Barcombe Lane. The site has an existing detached garage at the northern end of the plot, which has a ridge height of 2.7m from ground level (this equates to 58.96m AOD).

For the avoidance of doubt the ridge height of the proposed dwelling from ground level would range from 7m to 8m as the site is sloped (average of 63.25m AOD); the patio area would 2.3m from ground level (57.28m AOD); and the ridge height of No.1 Laura Grove is 9.4m (60.77m AOD) when viewed from Laura Grove. The site slopes down towards the southern edge of the site by some 1.4 metres. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

### **Detailed Proposals**

The proposal seeks to form a three bedroom dwelling with an integral garage in the curtilage of 1 Laura Grove, Paignton. The proposed dwelling includes an off-street parking space and outdoor amenity space. The proposal is two storey dwelling with the first-floor accommodation being located within the roof space.

Since the deferral of the application, the plans have been revised to remove the rear (eastern) elevation ground floor windows, which would have faced the garden of No.18 Southfield Avenue. The revisions also include a conservatory which will remove a section of the patio, therefore continuing the blank elevation of the ground floor eastern elevation. The proposed plans show a 1.7 metre high screen/wall to the proposed patio's eastern elevation and south-eastern corner. The kitchen door has been relocated from the southern elevation to the northern elevation. A 2.1 metre high section of screening has been proposed to the eastern boundary between the site and No.18 Southfield Avenue, which would provide additional privacy screening from the curtilage of the proposed dwelling.

### **Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

#### Material Considerations

- Emerging Paignton Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

### **Summary of Consultation Responses**

Highways: The Highways Development Control Standing Advice for Minor Developments applies to this Application.

Drainage Engineer: No objections, condition recommended.

### **Summary Of Representations**

Publication type: Neighbour notification letters/Site notice

4 objections have been received. Issues raised:

- Loss of privacy
- Overdevelopment
- Internal and external space standards
- Traffic and access
- Sets a precedent
- Overbearing
- Parking standards
- Not in keeping with the local area
- Previous planning history
- Impact on local area
- Drainage
- Visibility
- Permitted Development Rights

### **Relevant Planning History**

P/2004/0734: Erection Of Detached Dwelling With Attached Garage; Erection Of Detached Garage For Use By No 1 Laura Grove (As revised by letter and plan received 24/6/04). Refused 25/06/2004.

P/2004/1564: Erection of Detached Dwelling with Garage; Erection of Detached for Use by No. 1 Laura Grove (Revised Scheme) (as revised by plans received 15 October 2004). Refused 10/11/2004.

P/2005/0278: Detached Bungalow with Garage. Refused 23/03/2005.

P/2006/0339: Gateways Installed To End Of Brick Driveway. Approved 24/04/2006.

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

The key issues to consider in relation to this application are:

1. Principle of development
2. Impact on the character and appearance of the streetscene
3. Impact upon the amenity of neighbouring properties
4. Quality of residential accommodation
5. Drainage
6. Transport Issues
7. Ecology
8. Other Considerations

### **1. Principle of development**

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The site is located within an established residential area and is considered to be a sustainable location for such development being in relatively close proximity to services and public transport routes. The proposal is considered to be acceptable in principle.

It should be noted that previously, in 2004 and 2005, planning permission was refused for a new dwelling in the curtilage of No.1 Laura Grove, Paignton. The reasons for refusal include overdevelopment, impact on residential amenity, potential precedent. These concerns will be addressed in the body of this report.

### **2. Impact on the character and appearance of the streetscene**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 Design of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

Objectors have raised concerns that the proposal is a form of overdevelopment; it is not in keeping with the local area; and it would have a negative impact on the local area. Concerns have also been raised that permitting the proposal will set a precedent and that the proposal has not addressed previous planning concerns.

Planning permission has previously been refused on site for a new dwelling in the curtilage of No.1 Laura Grove, Paignton. Previous refusals have stated that a

dwelling would be detrimental to neighbouring occupiers. Furthermore, that a dwelling would be detrimental to the streetscene and on the character of the area generally.

There is a somewhat mixed local character and pattern of development within the locality, although it is generally characterised by detached and semi-detached houses within spacious plots. The site has been vacant and cleared for a number of years. The proposed dwelling would provide an active frontage along the highway.

An adequate area of outside space would be provided for both the proposal and No.1 Laura Grove, and it is considered that the two properties that would result from the proposal would not appear cramped. The overall layout is considered to be consistent with the urban grain of the area and without detriment to the character and appearance of the locality. The general scale of development is considered commensurate with the locality when considering the mix of dwelling types in the area.

It should be noted that the site slopes down to the south and that the natural ground levels therefore fluctuate on site, however it is considered that the proposal positively addresses the topography and provides a dwelling of a reasonable size, scale and massing.

In considering the design, regard must be given to the surrounding streetscene where there is a mixture of house types and designs and therefore given the context of the area, the proposal is considered to be acceptable in terms of design and impact on the streetscene. It is considered that as there is no distinct house type or character that the proposal is in keeping with the local area. The proposal would have a traditional appearance, having a pitched roof, including hipped and gable features. Details of the proposed materials, boundary treatment, bin storage, and landscaping can be secured through the use of conditions. It is also recommended that permitted development rights be removed to prevent an over-development of the existing and proposed properties in future.

Given the proposal's siting, scale, and visual appearance, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with the NPPF and Policy DE1 of the Local Plan.

### **3. Quality of residential accommodation**

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55 square metres for new dwellings. Internal floor standards are set out from the DCLG

technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 102 square metres is required for a three bedroom two storey dwelling.

Concerns have been raised by objectors that there is insufficient outdoor amenity space. The proposed internal floor area for the proposed dwelling is 126 square metres and the useable outside amenity space would be around 123 square metres, which is well above the standards required by the Local plan. No.1 Laura Grove would retain over 100 square metres of outdoor amenity space.

It is therefore considered that an adequate standard of accommodation for the existing and proposed dwellings would be provided.

#### **4. Amenity impact**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Concerns have been raised with regard to permitted development rights. To prevent an over-development of the site and potential harm to neighbouring amenity, a condition is recommended to remove permitted development rights from the proposal. Concerns have also been raised by the occupiers of dwellings on the opposite site of the highway, however, it is considered that the proposal would not have a detrimental impact upon those occupiers given the nature of the proposal and the separation distances involved.

The proposed dwelling would be located approximately 21 metres from the rear of No.1 Laura Grove and approximately 22 metres from the rear of No.18 Southfield Avenue. The revised plans displays datum levels across the site, which show the proposed dwelling would have a maximum height of around 4.3 metres higher than the existing garage. It should be noted that the proposed dwelling has a staggered roof, therefore the section of the roof closest to No.18 Southfield Avenue is 3.34 metres higher than the existing detached garage.

The eastern elevation of the proposed dwelling would be located in close proximity to No.18 Southfield Avenue's outdoor amenity space, separated by a path, which would have a 2.1m high screen fence installed alongside it. The rear (eastern) elevation of the proposed dwelling would have one opening to the first floor. The previous scheme included three openings to the ground floor which have now been removed to maintain privacy between the occupier of the proposed dwelling and the outdoor amenity space of No.18 Southfield Avenue. It should be noted that the opening to the first floor will serve a hallway, which is not a habitable room; in any case, the revised plans have labelled this opening as obscurely glazed, and this will be secured by means of a planning condition.

The rear elevation is approximately 13 metres from the southern boundary of the site. The site benefits from dense vegetation between itself and No.18 Southfield Avenue with No.1 Laura Grove's garage also providing screening. The proposed patio which would be accessed via the conservatory would have an obscurely-glazed screen conditioned to both the eastern and part of the southern flanks to prevent any unacceptable overlooking into No.18 Southfield Avenue's outdoor amenity space, particularly when the boundary screening and separation distances between the dwellings are considered. A further planning condition will be added to secure the landscaping of the scheme which will provide natural screening between the site and the adjacent properties, including the retention of any existing vegetation located along the eastern boundary and under the control of the applicant.

Considering the proposal's siting, scale, and design, along with its relationship to neighbouring properties in terms of separation distances and ground/floor levels, and the presence of existing boundary screening, and intervening structures, the proposal would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, and access to natural light. This is subject to the use of planning conditions to secure the obscure glazing, privacy screens, and landscaping referred to above. As such, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

## **5. Drainage**

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice. The Council's Drainage Engineer has reviewed the information submitted with the application and raises no objection to the proposed flood risk strategy and recommends a condition is employed to secure the means of surface water drainage.

As such, the proposal would comply with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

## **6. Transport issues**

Policy TA3 of the Torbay Local Plan states that new dwellings should be served by two car parking spaces. The proposal provides adequate off street parking provision and would therefore comply with Policy TA3 of the Torbay Local Plan. The parking space size requirements are set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces abutting the public highway requiring 3.2 metres by 5.5 metres to ensure that the vehicles does not overhang

or obstruct the pavement or onto the public highway. Furthermore, the dimensions for a garage under Appendix F are 3.3 metres by 6 metres.

Concerns raised by objectors state that there is insufficient parking and a lack of on-street parking. Further comments also raise concerns regarding visibility when using vehicles on Barcombe Lane.

The Council's Highways Engineer has stated that the Highways Development Control Standing Advice for Minor Developments applies to this application. The proposal will remove one on-street parking space, however this loss is outweighed by the benefit of the proposal offering two off-street parking spaces. The proposal includes an integral garage and an off-street parking space. The proposed garage measures approximately 3.5 metres by 6.5 metres and the off-street parking space measures approximately 3.5 metres by 6 metres. The proposed driveway will have a 1 in 8 gradient which is considered acceptable when taking into account the Highways Development Control Standing Advice for Minor Developments. With regards to visibility and concerns arising around Barcombe Lane, planning conditions relating to boundary treatments on the northern and western boundaries can be sought to ensure that visibility is not unacceptably affected. Therefore, the proposal complies with Policies TA2 and TA3 of the Local Plan.

Conditions are recommended to secure a scheme of boundary treatment to ensure the walls at the entrance to the site do not exceed 1 metre in height on Laura Grove and on the northern boundary which abuts Barcombe Lane. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway.

## **7. Ecology**

The site is a vacant parcel of land in the rear curtilage of No.1 Laura Grove, Paignton. The site has been cleared and would involve the demolition of a large derelict garage to the northern boundary of the site. An informative will be used with the consent to ensure that protected species are protected.

It is considered that the proposal would not have an adverse impact on ecology. The proposal is therefore considered to be in accordance with Policy NC1 of the Torbay Local Plan.

## **8. Other Considerations**

### **5-year Housing Land Supply**

The Council cannot presently demonstrate a deliverable 5 year housing land supply, as required by paragraph 47 of the National Planning Policy Framework (NPPF). At present, the Council is estimated to have a 3.96 year availability of housing land, as evidenced in the 'Torbay Council - Five Year Land Supply



Statement (December 2017)'.

The site could deliver 1 new dwelling and as such would be defined as a 'Windfall' site and would contribute to the under supply of housing in Torbay.

### **Neighbourhood Plan**

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policy for this application is Policy PNP1(c) Design Principles. This policy requires development proposals to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials. The proposal is considered to comply with this policy as the design, height and density of the proposed dwelling, and the scale and bulk of the proposal is in keeping with the surrounding area. The proposal is therefore considered to accord with the Paignton Neighbourhood Plan.

### **Human Rights and Equalities Issues -**

**Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

**Equalities Act -** In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

#### **S106/CIL -**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

### **Proactive Working**

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

### **Conclusions**

The proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

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

1. No development shall take place until a method statement for the construction of the development hereby approved has been submitted to and approved by the Local Planning Authority. The statement shall provide details of the management of material deliveries and where they will be stored; measures for minimising noise and preventing dust-drift; the times of construction on the site; and the management of parking provision for contractors working on the site. The development shall be carried out in accordance with the approved details.

Reason: This information is required prior to the commencement of the development as it will confirm how the construction process will be managed in the interests of highway safety and local amenity in accordance with policies TA1, TA2 and DE3 of the Torbay Local Plan 2012-2030.

2. No development shall take place until details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-

2030.

3. Prior to commencement of any works above damp proof course level on the new dwellings, samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the streetscene in accordance with Policy DE1 of the Torbay Local Plan 2012-2030.

4. Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

5. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

6. Prior to the first use or occupation of the dwelling hereby approved the parking area and garage shown on the approved plan (Plan Reference '1842-5 (Inc OS-Garage & roof)') received 8th November 2018 shall be provided and laid out in accordance with the plans. Thereafter the spaces shall be kept permanently available for the purposes of parking for the residents of the dwelling.

Reason: In order to provide adequate parking provision, in accordance with Policy TA3 of the Torbay Local Plan 2012 - 2030.

7. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage

arrangements shall be retained for the life of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 Development Access and TA3 Parking Requirements of the Adopted Torbay Local Plan 2012-2030.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to either the proposed or existing dwelling within the application site, and no outbuildings or other means of enclosure shall be erected within the garden areas of either dwelling, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

9. Prior to the occupation of the dwelling hereby approved, the first floor landing window in the eastern flank elevation of the development hereby approved shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. This window shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The window shall thereafter be permanently retained in that condition.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

10. Prior to the approved patio being brought into use, a 1.7m high obscure glazed privacy screen (to a minimum of Pilkington Level 3 or similar standard) shall be erected on the patio's eastern side and south-eastern corner, in accordance with the approved details plan reference '1842-8 (inc os)' received on 14<sup>th</sup> February 2019, and shall thereafter be retained for the life of the development.

Reason: In the interests of adjoining amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

11. In accordance with the submitted flood risk assessment received 8th November 2018, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to

the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

### **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. Responsibilities of the applicant / developer.

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

03. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

### **Relevant Policies**

DE1 - Design  
DE3 - Development Amenity  
H1 - New housing on identified sites  
ER1 - Flood Risk  
TA2 - Development access

TA3 - Parking requirements  
NC1LFS - Biodiversity and Geodiversity\_