

Application Number

P/2019/0152

Site Address133-135 Winner Street
Paignton
TQ3 3BP**Case Officer**

Miss Emily Elliott

Ward

Roundham with Hyde

Executive Summary/Key Outcomes

The application proposes the material change of use of the ground floor of 133-135 Winner Street, Paignton, from a retail unit to a one-bedroom apartment.

The proposal is considered to be acceptable in terms of the principle of development, visual impact, impacts on residential amenity, highways and flood risk. The proposal meets the requirements of the Torbay Local Plan and the Paignton Neighbourhood Plan..

Recommendation

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Reason for Referral to Planning Committee

As the proposed development is on land owned by a Councillor, the Council's constitution requires that the application be referred to the Planning Committee for determination.

Statutory Determination Period

3rd April 2019. Extension of time agreed until 14th June 2019.

Site Details

The application site comprises an end of terrace two-storey building, located on Winner Street, Paignton. The application site is currently a retail unit, which comprises a mid-twentieth century shopfront. The terrace of buildings is stepped back from the building line of the street frontage.

The site is located within the designated Old Paignton Conservation Area. There are a number of Grade II Listed Buildings within the immediate vicinity of the site. The site is not located within Paignton Town Centre, however it is in close proximity.

Detailed Proposals

The application proposes a change of use on the ground floor of 133-135 Winner Street, Paignton, from a retail unit to a one-bedroom residential apartment. The proposal includes a bedroom, a bathroom, a utility room and open kitchen/lounge/dining area. The proposal also includes external alterations to the building.

The external alterations include the removal of the shop frontage which serves as the retail unit, to be replaced with two windows and a door to serve the apartment. Further external alterations include the insertion of two windows to the southern side elevation and the insertion of a roof light to the rear existing flat roofed extension of the building.

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")
- The Adopted Paignton Neighbourhood Plan

Material Considerations

- 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

Interim Heritage Advisor: *I am also mindful that a very similar scheme was approved at 141-143 Winner Street where no heritage objections were raised. The building has a relatively modern utilitarian appearance and forms part of a short terrace of shops which includes 141-143) at the fringe of the shopping area. The shop front is reasonably well proportioned but of no particular architectural or historic merit. The proposal to remove the shop front and insert windows and a new door is generally sensitively handled and appropriately retains the feature brick work whilst aligning the new ground floor with that above.*

It would however be desirable to seek more traditional sliding sash windows on the ground floor (although I have no objection to the use of UPVC in this particular context). The access and design statement suggests that the new ground floor windows will match those at first floor but as these appear to be designed to allow the bottom section to tilt out this doesn't either appear to be a

visually attractive or indeed practical solution given that the windows adjoin a pavement. The new windows should be recessed at least to the same extent as the upper floor windows. Similar I would suggest that the new window and door details should be conditioned to ensure that it is of a quality appropriate to the Conservation Area.

Subject to the observations regarding the windows and door being resolved in my view the development will not harm the special character or appearance of the architectural and historic merit conservation area (i.e. will in effect preserve the overall special character and appearance) and therefore will comply with requirements of the Planning (Listed Building & Conservation Area) Act 1990.

Drainage Engineer: The development is located in Flood Zone 1, is not in an area susceptible to surface water flooding and relates only to a change of use, I have no objections on drainage grounds to planning permission being granted.

Highways Engineer: No objections.

Paignton Neighbourhood Forum: No comments received.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Twenty eight neighbour notification letters were sent to those neighbours which the development could affect. One letter of objection has been received. Concerns raised relate to access with regards to the shared footway between 131 Winner Street and the site.

Relevant Planning History

No previous relevant planning history associated with the site.

Key Issues/Material Considerations

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

1. Principle of development
2. Visual amenity
3. Residential amenity
4. Highways
5. Flood risk

1. Principle of development

The proposal is for a change of use on the ground floor from a retail unit to a one bedroom apartment. Being located within the built up area, a dwelling is considered to be in accordance with Policy H1 of the Local Plan, and acceptable in principle.

Policy TC4 states that residential use of ground floor units in peripheral parts of

the town centres, which are not subject to a primary or secondary frontage designation, will be permitted as long as these do not undermine the role or vitality of town centres, for example by creating inactive frontages. Furthermore, outside of town, district, local or neighbourhood centres proposals for the change of use of corner shops, village shops and other isolated shops will only be permitted where this would not result in the significant loss of facilities serving the day to day needs of local communities. The site is not within one of the centres listed in Policy TC2 of the Local Plan and when considering its proximity to Paignton Town Centre is not considered to be required to serve the day to day needs of local communities.

The site is currently being utilised as a retail unit. Whilst it may be preferable to continue a retail use which features an active frontage, it is considered that the proposal would help to improve the appearance of the building.

The site is within a Community Investment Area, Policy SS11 of the Local Plan states that within these areas development which meet the needs of residents, in terms of providing small to medium sized homes will be supported in principle.

The principle of the change of use is therefore considered acceptable.

2. Visual amenity

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 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. Policy PNP1(c) Design Principles of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal seeks to replace the mid-twentieth century shop frontage with a new entrance door and two windows to the principal elevation, two windows to the southern side elevation and a roof light to flat roofed extension to the rear of the building. Given the proposal's siting, scale, and design it is considered that it would not result in unacceptable harm to the character or visual amenities of the locality.

Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them. The Council's Interim Heritage Advisor

has stated that the building has a relatively modern utilitarian appearance and that the existing shop front is reasonably well proportioned but of no particular architectural or historic merit. Therefore, the proposal to remove the shop front and insert windows and a new door is generally sensitively handled and appropriately retains the feature brick work whilst aligning the new ground floor with that above. The Council's Interim Heritage Advisor has stated that the new windows should be recessed to the same extent as the first floor windows.

A planning condition will be employed to secure details of the proposed windows and door details prior to their installation to ensure that the materials enhance and conserve the Old Paignton Conservation Area and to ensure that the proposal complies with the requirements of the Planning (Listed Building & Conservation Area) Act 1990.

Policy PNP11 of the Paignton Neighbourhood Plan states that subject to other policies of the Neighbourhood Plan, improvements of the area will be supported that better the function, amenity and public enjoyment by design detail that will retain shop and building fronts of importance to the area. Policy PNP11 goes on to state that where possible historic features such as building lines, window patterns and material should be reinstated. It is considered that the existing shop frontage and retail unit is not of importance to the area as it is a later addition to the streetscene. The proposal seeks to remove the shop frontage and propose fenestrations which will provide uniformity to No.133-135 Winner Street. A planning condition will be employed to secure details of the materials used to reinstate the principal elevation of the building, including appropriate opening types.

Subject to the planning conditions mentioned, the proposal is considered to comply Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF.

3. Residential amenity

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

The proposed one bedroom apartment has an internal floor area of approximately 87 square metres. It includes a bedroom, a bathroom, a utility room and open kitchen/lounge/dining area. Table 23 of the Local Plan sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard. For a one-bedroom apartment, the minimum gross internal floorspace area is 39 square metres where there is a bath instead of a shower in the bathroom. The proposed one bedroom apartment exceeds the required minimum gross internal area and therefore complies with this criterion of Policy DE3.. Policy DE3 of the Local Plan also states that apartments should provide 10 square metres of outdoor amenity space and the proposal includes approximately 13 square metres of outdoor amenity space. A

planning condition will be included to provide details regarding the boundary treatments for the site.

The plans for the proposal have been revised a number of times to overcome officer concerns in relation to the internal environment for the future occupiers with particular regard to the outlook and level of natural light the proposal offers. The proposed apartment is now considered to provide an adequate and suitable environment for future occupiers.

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours in terms of their outlook, privacy, or access to natural light.

The proposal is therefore considered to be in accordance with Policy DE3 of the Local Plan.

4. Highways

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development.

The proposal would not include any parking spaces but is located in relatively close proximity to good public transportation links, central car park, and local amenities. The site is deemed to be in a sustainable location and therefore does not require a parking space. An objector has raised concerns with regards to the access of the alleyway to the southern boundary of the site, the proposed floorplan shows that there is shared access for the adjacent building No.131 Winner Street and the application site. The access route in question becomes exclusive to the proposed dwelling approximately halfway along the southern boundary of the site, which then provides a small courtyard and storage area for the proposed apartment. This arrangement is considered adequate to allow a safe and usable access for the proposal's future occupiers. The proposed waste storage and bicycle storage is not particularly clearly detailed on the proposed floorplans. In light of this, a planning condition has been included to require the submission of details relating to waste and bicycle storage.

Subject to the aforementioned planning conditions, the proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan.

5. Flood risk

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. Policy PNP1(i) Surface Water of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. As the proposed development would not result in an increase in the impermeable area on the site, the proposal is deemed acceptable in terms of its impact on surface water flooding. Given the nature of the proposal, the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP(i) of the Paignton Neighbourhood Plan.

Statement on 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.

Conclusions

The proposal is considered acceptable, having regard to the Adopted Torbay Local Plan 2012-2030, the Paignton Neighbourhood Plan, and all other material considerations.

Condition(s)/Reason(s)

Window and Door Details

Prior to the installation of the windows and doors the following shall be submitted to and approved in writing by the Local Planning Authority, which seek to respond to the positive aspects of the local prevailing character of the area:

- Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in accordance with the approved details and shall be carried out in full prior to the first occupation of the apartment.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Old Paignton Conservation Area in accordance with Policies DE1 Design and SS10 Conservation and the Historic Environment of the Adopted Torbay Local Plan 2012-2030.

Bin Storage

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 Design of the Adopted Torbay Local Plan 2012-2030.

Bicycle Storage

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.

Boundary Treatment

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.

Materials

Prior to the first occupation of the development hereby approved, proposed cladding materials relating to the principal elevation of the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

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

Relevant Policies

DE1 - Design
DE3 - Development Amenity
SS10 - Conservation and Historic Environment
ER1 - Flood Risk
TA2 - Development Access
TA3 - Parking Requirements

PNP1(c) – Design Principles
PNP1(d) – Residential Development
PNP1(i) – Surface Water
PNP11 – Old Town