

**Application Number**

P/2019/0249

**Site Address**The Coach House  
Stearfield Road  
Paignton  
TQ3 2BG**Case Officer**

Miss Emily Elliott

**Ward**

Roundham With Hyde

**Executive Summary/Key Outcomes**

This planning application proposes the erection of a detached building comprising two self-contained retirement apartments within the curtilage of The Coach House, Stearfield Road, Paignton.

The proposal is considered to be contrary to Policies DE1 (Design), DE3 (Development Amenity), TA2 (Development Access) and TA3 (Parking Requirements) of the Torbay Local Plan, along with Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan, and is therefore recommended for refusal.

**Recommendation**

Refusal for the reasons given at the end of this report. The final drafting of these reasons and addressing any new 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**

13<sup>th</sup> May 2019. Extension of time agreed until 12<sup>th</sup> July 2019.

**Site Details**

The application site is comprised of a retirement complex located on Stearfield Road.

**Detailed Proposals**

The application proposes a two-storey building with access to the two retirement apartments from its southern elevation. The main openings for the two apartments are on the eastern and western elevations. The ground-floor unit includes a kitchen/living room, a wet room and two bedrooms, although one bedroom states

it could also be used as a study. The first floor unit includes a kitchen/living room, a shower and water closet, and a bedroom.

The proposal also includes alterations to the parking provision, the removal of an existing off-street parking space and the introduction of three parallel off-street parking spaces from Steartfield Road.

### **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 ("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**

Senior Tree and Landscaping Officer: Objection. The site is directly adjacent to an area tree preservation order (TPO) to the North (TPO Ref 1974.11, Tree Ref A2, confirmed 17/02/1975) – it is possible that some of the site is included within the area order. It is noted from the ecological survey that there are at least two trees on site. The design and access statement makes no reference to the TPO or the trees in general despite their proximity to the proposal. The design does not appear to account for the adjacent trees and the potential impact of the trees during the development phase or address the long term relationship between the trees and the proposal. Request for the design to be informed by an arboricultural report as per BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

Drainage Engineer: The development is located in Flood Zone 1 and the developer is proposing to discharge his surface water drainage using soakaways, please use the recently agreed standing advice for this planning application.

Highways Engineer: Highways would object as parking must be at a right angle to the highway with the vehicle able to enter and exit the property in one movement.

Paignton Neighbourhood Forum: No comments received.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Four letters of objection have been received.

Issues raised by the objectors:

- Not in keeping with local area
- Impact on local area
- Loss of light
- Noise
- Overdevelopment
- Privacy/overlooking
- Traffic and access
- Trees and wildlife

### **Relevant Planning History**

No previous relevant planning history relating to 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. Ecology and trees
6. Flood risk

#### **1. Principle of Development**

The proposal is for the erection of a building to comprise of two self-contained retirement apartments within the curtilage of The Coach House, Stearfield Road, Paignton. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

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 proposal would therefore comply with Policy H1 of the Local Plan.

#### **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 is for a two storey, detached building, which would have a ridge height of approximately 5.5 metres, a width of approximately 4.8 metres, and a depth of approximately 11.5 metres. The proposal includes pitched roof dormer elements to the eastern and western elevations. Objectors have raised concerns that the proposed development is not in keeping with the local area, and that it would constitute a form of overdevelopment.

The proposed two-storey building would be located alongside the Coach House and around 0.5 metres from the boundary with properties at Oldenburg Park. It is considered, by reason of its siting, scale and relationship with existing buildings that the proposed development would result in a crowded and cramped form of development, to the detriment of the character of the area. Given its height and bulk in particular, it is considered that the appearance of the proposal would result in the creation of an incongruous addition to the existing streetscene and garden environment of the retirement complex and other neighbouring properties.

Therefore, the proposal is considered to be contrary to Policy DE1 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 two bedroom ground floor apartment has an internal floor area of approximately 54 square metres. It includes a living area with kitchen, a wet-room and two bedrooms. Table 23 of the Local Plan sets out the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard. For a two bedroom apartment, with three bed spaces, the minimum gross internal floorspace area is 61 square metres, therefore the proposed two bedroom apartment has a deficit of 6 square metres and is contrary to Policy DE3 of the Local Plan.

The proposed one bedroom first floor apartment has an internal floor area of approximately 55 square metres. It includes a living area with kitchen, a shower and water closet and one bedroom. Given Table 23 of the Local Plan, a one

bedroom apartment should have a minimum gross internal floorspace area of 39 square metres, therefore the proposed one bedroom first floor apartment complies with Policy DE3 of the Local Plan.

Policy DE3 of the Local Plan also states that apartments should provide 10 square metres of outdoor amenity space. Whilst the proposed building would not include any amenity space of its own, the proposed dwellings would have access to the existing communal garden within the wider site.

Objectors have raised concerns that the proposed development would result in a loss of light, noise and overlooking. The proposed development would be approximately 0.5 metres from the boundary of No.18 Oldenburg Park and approximately 12 metres from the rear elevation of the associated dwelling. Given the height and bulk of the proposed development in such close proximity to a neighbouring garden and dwelling, it is considered that it would have an overbearing effect in relation to this neighbouring properties, resulting in unacceptable harm to the amenities of neighbours.

The proposal would result in the creation of three new car parking spaces, two of which would be located alongside Nos.22-29 The Coach House – these would replace a parking space lost as a result of the proposal, and provide parking for the two proposed units. Given their location, parallel to the windows of the existing properties, it is considered that they are likely to result in an unacceptable level of disturbance to the occupiers of The Coach House. The proposal is therefore contrary to Policy DE3 of the Local Plan.

It is considered that the proposal would provide a poor standard of accommodation for future occupiers of the ground floor flat. Two of the proposed parking spaces would have an unacceptable effect through disturbance on the occupiers of The Coach House. Furthermore, the height and bulk of the proposal would have an unacceptable overbearing effect in relation to neighbouring occupiers at Oldenburg Park.

The proposal is therefore contrary to 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. Policy PNP1(d) Residential Development of the Paignton Neighbourhood Plan states that new residential development

should aim to achieve where appropriate and subject to viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

Appendix F of the Local Plan sets out that for new apartments there is a one off-street car parking space requirement per apartment. The proposal proposes three off-street parking spaces for the proposed apartments. Parking spaces which abut the public footway and highway should be 5.5 metres by 3.2 metres to prevent vehicles from causing an obstruction to the public footway and potentially the public highway, the existing and proposed off-street parking spaces achieve this. The Highways Development Control Standing Advice for Minor Development Applications states that off-street parking spaces must be at a right angle to the public highway to ensure that vehicles are able to enter and exit the public highway in one movement.

The proposal would remove an existing substandard off-street parking space and proposes the insertion of three parallel parking spaces adjacent to the western elevation of the proposed development and The Coach House. The proposed off-street parking spaces do not comply with the required dimensions stated under Appendix F, as they range from 6.5-7 metres by 2.6 metres, instead of the required 5.5 metres by 3.2 metres. The Council's Highways Engineer objects to the proposed development, as the proposed off-street parking must be at a right angle to the highway with the vehicle able to enter and exit the property in one movement. One parking space is adjacent to Steartfield Road, whilst the other two are sited within an unadopted car park. The proposed parking spaces are not supported with a vehicle tracking plan, therefore there is uncertainty as to whether the vehicles could access the spaces given the area above the central and right-hand side spaces being sited within the unadopted car park.

The proposed floorplans and layout do not indicate an area dedicated for refuse or cycle storage, however this could be secured by means of a planning condition.

The proposal is therefore contrary to Policies TA2 and TA3 of the Local Plan.

## **5. Ecology and Trees**

Policy NC1 Biodiversity and Geodiversity of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Objectors have raised concerns of the wildlife present on site. The site is supported by an ecological appraisal, which the findings states that there are no habitats on site for any species of bat to find sustenance or foraging opportunities. The report also found that many birds visit the feeders on site and in adjacent gardens and concludes that if the development were to take place during the bird breeding season there is a high probability that birds would be disturbed at the nest, in the shrubbery behind the fence and the bird box on the wall in the neighbouring garden. The report states that development can only take place when it is known that all the birds in the vicinity are fully fledged and left the

nest. No further surveys are required. The proposal therefore complies with Policy NC1 of the Local Plan.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role. The site is directly adjacent to an area tree preservation order (TPO) to the North (TPO Ref 1974.11, Tree Ref A2, confirmed 17/02/1975) – it is possible that some of the site is included within the area order. Objectors have raised concerns with regards the impact of the protected trees. The Council's Senior Tree and Landscape Officer recommends refusal and stated that the design does not appear to account for the adjacent protected trees and the potential impact of the trees during the development phase or address the long term relationship between the trees and the proposal. The Council's Senior Tree and Landscape Officer has requested for the design to be informed by an arboricultural report as per BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. The applicant does not wish to undertake an arboricultural report due to the unfavourable recommendation made.

The applicant has not submitted sufficient information to enable the Council to assess if the proposed development would have an acceptable impact on the existing protected trees, therefore it cannot be confirmed if the proposed development would accord with Policy C4 of the Local Plan.

## **6. 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. Objectors have raised concerns with regards to drainage. The Council's Drainage Engineer raises no objection. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(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 proposed development is considered unacceptable, having regard to the Torbay Local Plan, the Adopted Paignton Neighbourhood Plan, and all other material considerations.

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

01. Given its siting, scale and design, along with its relationship to existing buildings, it is considered that the proposal would result in a cramped form of development and an incongruous addition to the streetscene and the rear garden environment of neighbouring properties. As such, the proposal would be detrimental to the character of the area, contrary to Policy DE1 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.
02. The proposed ground floor apartment would provide a poor quality residential environment by reason of the area of internal living space that would be available to future occupiers, which is below that required by Policy DE3 of the Torbay Local Plan.



03. Given the proposal's siting and scale in close proximity to a neighbouring property at Oldenburg Park, it is considered that the proposal would contribute to an unacceptable overbearing effect and overshadowing within that dwelling's rear garden area. As such, the proposal is contrary to Policy DE3 of the Torbay Local Plan.
04. The proposed parking spaces are likely to result in noise and general disturbance to neighbouring occupiers given their close proximity to existing dwellings at The Coach House. As such, the proposal is contrary to Policy DE3 of the Torbay Local Plan.
05. Given the sub-standard size and design of the proposed parking spaces, the proposed development would result in an inadequate level of car parking provision, to the detriment of highway safety and amenity. As such, the proposal is contrary to Policies TA2 and TA3 of the Torbay Local Plan.
06. The proposed works are in close proximity to protected trees. As a tree survey and assessment has not been provided it cannot be determined whether or not the proposal would have an acceptable impact on the protected trees and the contribution they make to the visual amenities of the surrounding area, and therefore whether the proposal would be in accordance with Policy C4 of the Torbay Local Plan.

### **Relevant Policies**

C4 - Trees, Hedgerows and Natural Landscape Features

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

H1 - Applications for New Homes

NC1 - Biodiversity and Geodiversity

TA2 - Development Access

TA3 - Parking Requirements

PNP1(c) - Design Principles

PNP1(d) - Residential Development

PNP1(i) - Surface Water