

Friday, 3 September 2021

PLANNING COMMITTEE

A meeting of **Planning Committee** will be held on

Monday, 13 September 2021

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Pentney (Chairman)

Councillor Brown

Councillor Kennedy

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley (Vice-Chair)

Councillor Mills

Councillor Hill

Councillor Jacqueline Thomas

Together Torbay will thrive

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Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**
To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes** (Pages 4 - 7)
To confirm as a correct record the Minutes of the meeting of this Committee held on 9 August 2021.

3. **Disclosure of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda.

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.

5. **Ashfield Gables, Ashfield Road, Torquay TQ2 6HE P/2021/0856** (Pages 8 - 15)

6. **50 Victoria Street, Paignton, TQ4 5EQ P/2021/0410** (Pages 16 - 24)
Installation of free standing advertising unit (FSU), containing back to back digital displays.

7. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.

8. **Site visits**

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 8 September 2021. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

Minutes of the Planning Committee

9 August 2021

-: Present :-

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Kennedy, Barbara Lewis, Loxton and
Jacqueline Thomas

(Also in attendance: Councillors Bye, Chris Lewis and David Thomas)

58. Apologies for absence

It was reported that, in accordance with the wishes of the Independent Group, the Membership of the Committee had been amended to include Councillor Loxton instead of Councillor Mills.

59. Minutes

The Minutes of the meetings of the Committee held on 12 and 19 July 2021 were confirmed as a correct record and signed by the Chairman.

60. Beacon Cove, Parkhill Road, Torquay TQ1 2EP P/2019/1023

The Committee considered an application for the formation of five tourist accommodation beach huts and kiosk (as revised by plans received on 15 June 2021 showing revised foul drainage strategy).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Graham Stephenson and Paul Turner addressed the Committee against the application, Jan Tribble addressed the Committee in support of the application and Julie Brandon spoke on behalf of the Torquay Neighbourhood Forum.

Resolved:

That planning permission be granted, subject to:

1. written confirmation from Natural England that they accept the conclusions of the Habitats Regulations Assessment and the Marine Conservation Zone Assessment;

2. the planning conditions outlined in the submitted report, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
3. the completion of a S106 Legal Agreement to secure heads of terms as outlined in the submitted report, to include a clause to ensure the site is managed by a suitable management company as a single site, delegated to the Assistant Director of Planning, Housing and Climate Emergency; and
4. that the resolution of any new material considerations that may come to light following Planning Committee be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

61. Torre Abbey Sands, Beach Promenade, Torquay P/2021/0300

The Committee considered an application for the installation of 2 x 20ft converted shipping containers to house mobile catering concession and water sports rental (retrospective) (revised plans received 3 June 2021).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Rodney Horder made representations on behalf of the Torquay Neighbourhood Forum.

Resolved:

That planning permission be granted, subject to:

1. the management of the waste from the site being in accordance with the approved drawings or in a position to be agreed in writing with the Local Planning Authority;
2. variation to condition 3 to ensure both ends of the buildings are also clad;
3. the planning conditions outlined in the submitted report (subject to 1 and 2 above), with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
4. that the resolution of any new material considerations that may come to light following Planning Committee be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations; and
5. written confirmation being received from Historic Natural England that the impact on the Scheduled Monument is acceptable.

62. Land Off Orchard Way, Edginswell Torquay P/2021/0123

The Committee considered an application for enabling works for future development comprising an extension of Orchard Way with associated retaining walls and landscaping.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Nigel Goodman address the Committee on behalf of the Torquay Neighbourhood Forum, Councillor Steve Darling spoke in support of the application and a written statement was read out by the Planning Officer on behalf of the TDA.

Resolved:

That planning permission be granted, subject to:

1. the resolution of the relationship of the southern crib wall and the Root Protection Area of tree OT1, to the satisfaction of officers;
2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency; and
3. that the resolution of any new material considerations that may come to light following Planning Committee be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

63. Land At Quinta Playing Fields, Quinta Road, Torquay TQ1 3RN P/2021/0560

The Committee considered an application for the installation of a 10m high emergency landing illumination beacon for the Air Ambulance.

Prior to the meeting written representations were available on the Council's website. At the meeting Nigel Goodman addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum and Toby Russell from the Devon Air Ambulance also spoke in support of the proposal.

Resolved:

That planning permission be granted subject to:

1. the conditions detailed in the submitted report; and
2. the final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

**64. Land At White Rock Playing Field, Davies Avenue, Paignton TQ4 7AW
P/2021/0564**

The Committee considered an application for the installation of a 10m high emergency landing illumination beacon for the Air Ambulance.

Prior to the meeting written representations were available on the Council's website. At the meeting Toby Russell from the Devon Air Ambulance addressed the Committee support of the proposal.

Resolved:

That planning permission be granted subject to:

1. the conditions detailed in the submitted report; and
2. the final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

**65. Land At Barton Cricket Club Playing Field, Barton Road, Torquay TQ2 7NY
P/2021/0561**

The Committee considered an application for the installation of a 10m high emergency landing illumination beacon for the Air Ambulance.

Prior to the meeting written representations were available on the Council's website. At the meeting Nigel Goodman addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum and Toby Russell from the Devon Air Ambulance also spoke in support of the proposal.

Resolved:

That planning permission be granted subject to:

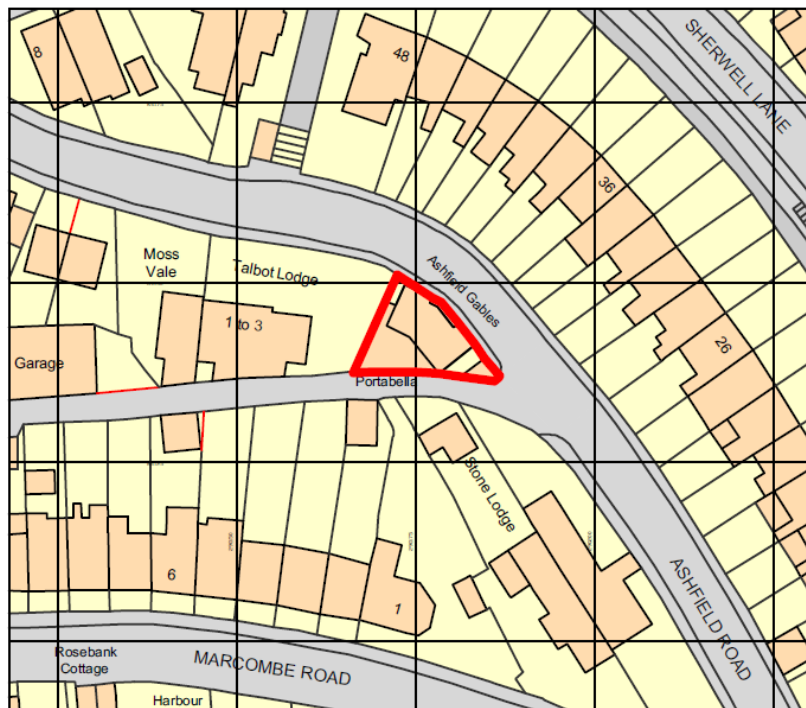
1. the conditions detailed in the submitted report; and
2. the final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

(Note: prior to consideration of the item in Minute 65 Councillor Loxton declared a non-pecuniary interest as Director of Barton Recreation Ground.)

TORBAY COUNCIL

Application Site Address	Ashfield Gables Ashfield Road Torquay TQ2 6HE
Proposal	Proposed new window; external wall and roof section to existing ensuite shower room; new external door to garage; new external gate to rear terrace.
Application Number	P/2021/0856
Applicant	Mr Rob Finch – Torvista Homes Ltd
Agent	Mr Jonathan Ling-Cotter – MTA Chartered Architects Ltd
Date Application Valid	21/07/2021
Decision Due date	15/09/2021
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Emily Elliott

Location Plan:



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Site Details

The site is a two storey detached residential property with an integral garage located on Ashfield Road, with a private service lane that lies to the south of the site. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

Description of Development

The proposal seeks permission for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the rebuilding of the external single skin wall in cavity construction and the section of flat roof over to be replaced on the ground floor en-suite. The proposal also includes the insertion of a door to the south-eastern elevation to serve the existing garage and a timber gate on the south-western perimeter. The proposal also includes a number of internal alterations, however internal alterations to this site do not require planning permission.

Pre-Application Enquiry

None sought.

Relevant Planning 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 Torquay Neighbourhood Plan 2012-2030

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice 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.

Relevant Planning History

P/2021/0460: Installation of window and door. Withdrawn 21/07/2021.

P/2021/0404: Certificate of Lawfulness for proposed change of use from C3 (Dwellinghouse) to C4 (HMO). Approved (Permitted Development) 10/06/2021.

P/2008/0025: Alterations; First Floor Bedroom And Ground Floor Garage Extension. Approved 22/02/2008.

P/2004/1335: Erection Of Dwelling With Garage And Vehicular/ Pedestrian Access (Revised Scheme). Approved 15/12/2004.

Summary of Representations

The application was publicised through neighbour notification letters. Approximately 7 letters of objection by 6 individuals have been received.

Concerns raised include:

- Inaccurate plans (Officer comment: The applicant has signed the declaration stating that the plans and information provided are to the best of their knowledge).
- Residential amenity
- Noise
- Parking
- Impact on local area
- Not in keeping with local area
- Overdevelopment
- Sets a precedent
- Privacy/overlooking
- Public consultation (Officer comment: The application was advertised by neighbour notification letters. Householder applications and applications for minor alterations in flats which are not in a Conservation Area are dealt with under a fast track system as set out in the Council's Statement of Community Involvement and do not require a site notice)
- Right of access = Not a material planning consideration.
- Fire regulations = Not a material planning consideration.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No comments received.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Parking
5. Impact on Flood Risk and Drainage

1. Principle of Development

The proposal is for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the rebuilding of the external single skin wall in cavity construction and the section of flat roof over to be replaced on the ground floor en-suite. The proposal also includes the insertion of a door to the south-eastern elevation to serve the existing garage and a timber gate on the south-western perimeter.

In the context of householder development within the built-up area there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

A number of objectors have raised concerns regarding the planning history of the site and the potential use of the site. It should be noted that the site was subject of a certificate of lawfulness for proposed use which is separate to this application.

The proposed development requires planning permission, as the original planning permission for the dwelling removed permitted development rights for all types of development described in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (as amended).

2. Impact on Visual Character

Paragraph 126 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 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design'. 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 TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The proposal seeks permission for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the rebuilding of the external single skin wall in cavity construction and the section of flat roof over to be replaced on the ground floor en-suite. The proposal also includes the insertion of a door to the south-eastern elevation to serve the existing garage and a timber gate on the south-western perimeter.

Objectors have raised concerns that the proposal would have a negative impact on the local area, not in keeping with the local area, would constitute overdevelopment and set a precedent.

Officers consider that these very minor changes to the external appearance of the dwelling will have no significant adverse impact on the appearance of the dwelling or the street scene. The proposed rebuild of the external wall and recovering of the roof serving the en-suite would not have any additional impact on the existing dwelling or street scene, as it would be replaced on a like-for-like basis. A planning condition is proposed to ensure that the proposal matches the materials used in the existing windows and door. It is considered that the proposal is acceptable with regards to its impact on the character and appearance of the existing dwelling and streetscene.

The proposal is considered to be in accordance with Policy DE1 of the Local Plan, and Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Paragraph 130 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development should not unacceptably impact upon the amenities of neighbouring occupiers in terms of their outlook, privacy, or access to natural light.

Objectors have raised concerns regarding residential amenity, in particular noise and privacy/overlooking. The proposal is for a window to serve the ground floor en-suite, which will be conditioned to be obscurely glazed to protect the privacy of the occupiers. The proposal also includes the insertion of a door to serve the existing garage on the south-eastern elevation and a timber gate to the south-western flank that would be of no further detriment to adjacent neighbours. It is deemed that the proposal would not result in any notable increase in noise that would be detrimental to neighbouring properties.

The proposal is not considered to result in any serious detriment to amenities of neighbours by loss of privacy, outlook or access to natural light and therefore the proposed alterations are considered acceptable given the context. The proposal is considered to comply with Policy DE3 of the Local Plan.

4. Impact on Parking

In a previous application that has been withdrawn, concerns were raised that the proposed new garage door would prevent use of the space as a garage as a parked car would block use of the door. The door as now proposed opens outwards and the submitted plans show how a car could fit within the space whilst still allowing easy access to the garage door. As such it is considered that there will be no change to parking provision as a result of the proposal.

5. Impact on Flood Risk and Drainage

Policy ER1 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 the application has been 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.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. 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: Not applicable.

CIL: Not applicable.

EIA/HRA

ERA: 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.

HRA: Not applicable.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development and it is in accordance with the Development Plan, including the Torquay Neighbourhood Plan. As such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; and would provide acceptable arrangements in relation to flood risk. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer 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 for Planning, Housing and Climate Emergency.

Conditions

Materials

The external appearance of the new window and door hereby approved shall match those of the host dwelling, 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 Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan 2012-2030.

Obscure Glazing

The new window hereby approved on the ground floor, northern flank elevation shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. The window shall thereafter be permanently retained in that condition for the lifetime of the development.

Reason: In the interests of residential amenity, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

Informative(s)

1. 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

ER1 – Flood Risk

ER2 – Water Management

SS3 – Presumption In Favour Of Sustainable Development

SS14 – Low Carbon Development and Adaptation to Climate Change

TH8 – Established Architecture

TORBAY COUNCIL

Application Site Address	50 Victoria Street, Paignton, TQ4 5EQ
Proposal	Installation of free standing advertising unit (FSU), containing back to back digital displays.
Application Number	P/2021/0410
Applicant	Clear Channel
Agent	n/a
Date Application Valid	22/05/20
Decision Due date	29/06/21
Extension of Time Date	N/a
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	The site is owned by the Council and an objection has been received.
Planning Case Officer	Sean Davies

Location Plan



Site Details

The site comprises an area of pavement outside of no. 50 Victoria Street, Paignton TQ4 5EQ. The site forms part of the built-up area. It is within the Paignton Town Centre Area and the Old Paignton Conservation Area. The site is outside a Primary Shopping Frontage. Victoria Street is a pedestrianised shopping street.

Description of Development

Installation of free-standing advertising unit (FSU), containing back to back digital displays.

Pre-Application Enquiry

The Local Planning Authority and Torbay Highways have provided informal positive feedback to the applicant at pre-application stage in relation to the current proposal.

Relevant Planning 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 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.

Relevant Planning History

None.

Summary of Representations

None.

Police: No objection

Torbay Highways: No objection.

Torbay Community Safety: No objection.

Paignton Neighbourhood Forum:

An objection has been received raising concerns as summarised below:

The proposal is contrary to Paignton Neighbourhood Plan Policy PNP1(c) as it would be out of keeping with its surroundings and would not respect an existing townscape vista. Also Policy PNP12(h) and the Paignton Town centre Masterplan as it would not de-clutter the

town centre and make it easier to move around and would actually add to clutter and make it harder for pedestrians to move around.

The proposal is contrary to Torbay Local Plan Policy SDP1 Paignton as it will not improve the built environment or recapture the historic character of the old town, but would rather detract from the historic character of Victoria Street. The proposal is also contrary to Policy DE6 Advertisements as it would harm visual amenity and public safety, by creating an opportunity for miscreants to hide behind the mand carry out muggings and assaults.

The proposals fail a number of the ten criteria for good design set out in the National design Guide, namely: Context, Identity, Public Spaces, resources and Lifespan as well as paragraph 130 of the National Planning Policy Framework as the proposals represent poor design.

Concerns have also been raised that details of a contract with the Council referred to in information submitted with the application have not been provided and that certain arguments advanced by the applicant in favour of the proposals are not relevant.

(Note – officers understand that the Council has a contract with the applicant for the delivery of a number of FSUs across Torbay. The contract, and the details of the contract, are not planning issues that can be considered in determining the application. Officers have nevertheless referred Paignton Neighbourhood Forum to officials within the Council dealing with the contract so that they can see details publicly available).

Key Issues/Material Considerations

1. Principle of Development
2. Visual and aural amenity
3. Public safety

1. Principle of Development

The proposal seeks permission for Installation of free-standing advertising unit (FSU), containing back to back digital displays. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual and Aural Amenity

Policy DE6 (Advertising) of the Local Plan states that advertisements will not be permitted where they would harm visual or aural amenity.

(i) Visual amenity

An objection has been made by the Paignton neighbourhood Forum that the proposals would be out of character with the surrounding area (PNP1(c)(ii)), would detract from an existing townscape vista looking up Victoria Street from the station (PNP1(c)(iii)) and would add to clutter in the Town Centre making it harder to get around contrary to Policy PNP12(h) and the Paignton Town Centre Masterplan. Also that the proposal would not improve the built environment or recapture the historic character of the old town (SDP1) and would harm the visual amenity of Victoria Street by providing a stark and unpleasant contrast to the setting of the Conservation Area. The objection also argues that the proposed FSU fails to meet certain characteristics of the National Design Guide (Context, Identity, Public Spaces, resources, Lifespan) and represents poor design within the meaning of paragraph 130 of the National Planning Policy Framework.

In forming a view about whether the proposals would harm visual or aural amenity officers have considered these points as well as Policy SS10 of the Torbay Local Plan (Conservation and the historic environment) and Policy DE1 (Design).

The proposal is for advertisement consent for a double-sided digital FSU. Information submitted with the application shows that it would be 2.77m high, 1.34m wide, 30.5cm deep, and that each digital panel would be approximately 1.5sqm in area. The FSU housing would be black powder coated stainless steel. Displayed images would be static and would change no more frequently than every 10 seconds. The FSU would be operational from 05:00am to 02:00am and switched off in between. The digital displays would be backlit to a maximum brightness in darkness of 280 cd/sqm.

The applicant was granted planning permission for a similar (the FSU was 2.61m high but otherwise identical to the current proposal) double sided digital display FSU outside no. 26 Victoria Street (WH Smiths) under reference P/2020/0184 last year. No objections were received in relation to these proposals and so the application was determined using delegated powers.

The applicant withdrew a number of other applications for FSUs around Torbay in 2020 in response to officer concerns. Officers have discussed the current proposal with the applicant during pre-application discussions. The application under consideration in this report is one of six that the applicant has submitted in response to those discussions (the other five sites are in Torquay). It should be noted that the applicant has withdrawn application P/2021/0538, for a FSU outside no. 45 Victoria Street in response to concerns raised by officers that this would be too close to the FSU proposed on the opposite side of the road outside no. 50 and cumulatively would be visually intrusive (the site at no. 45 did not form part of pre-application discussions).

Conservation, the historic environment and listed buildings

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Policy HE1 states that development proposals should have regard to the desirability of preserving the setting of any listed building.

The site is within the Old Paignton Conservation Area. All nearby buildings are identified as Key Buildings in the conservation area appraisal. The nearest listed building is the Grade II* Cinema building on the other side of the level crossing.

Officers do not consider that the proposals would detract from the setting of the Cinema listed building. Officers also consider that the proposals would amount to sympathetic development within the conservation area and would make a small contribution to conserving and enhancing the conservation area by adding to a sense of vitality along what is a key shopping street.

The proposal is therefore considered to be in accordance with Policies SS10 and HE1.

Design

Paragraph 130 of the National Planning Policy Framework 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*”. Paragraph 132

states that *“The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts”*. The National Design Guide sets out 10 characteristics of well designed places (Context, Identity, Built Form, Movement, Nature, Public Spaces, uses, Homes and Buildings, Resources and Lifespan. Policy SDP1 of the Local Plan states that *“Paignton will be rejuvenated through high quality mixed use development of key town centre ... sites. Improvement of the built environment will recapture the historic character of the old town”*. 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) of the Paignton Neighbourhood Plan states that *“development proposals should where possible and appropriate to the scale and size of the proposal: be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials”* PNP(c)(ii) and *“respecting important landscape or townscape vistas”* (PNP1(c)(iii)). Policy PNP12 states that *“proposals supported where they will” ... “de-clutter the town centre to make it easier to move around”*. The Paignton Masterplan calls for the creation of a new Palace Square at the junction of Torquay Road and Palace Avenue and the de-cluttering of this area through removal of street furniture. The Masterplan sets out an aspiration to *“Support more use of the street surface for café seating, open air markets and themed events, festivals and similar attractions, whilst ensuring no loss of the existing street trees and seating capacity”*. Along the already pedestrianised part of Victoria Street.

Officers consider that the proposed FSU represents good design and would be appropriately sited close to an existing busy junction with an urban character. Officers have considered the characteristics of well designed places highlighted by the application (Context, Identity, Public Spaces, resources, Lifespan) but do not agree that the proposal in contrary to these. Officers consider that the proposals are likely to enhance the general street scene (Context), would be attractive and distinctive (Identity), would be safe, social and inclusive (Public Spaces) and would be efficient and resilient and made to last (Resources and Lifespan). It should be noted in this respect that a standard advertising condition could be used to ensure that the proposed FSU is maintained in a condition that does not impair the visual amenity of the site.

Officers consider that the proposed FSU would not be out of character with the existing street scene given the presence of existing street trees, benches, bollards, bins, bike racks and street lights in the vicinity.

Officers do not consider that the proposed FSU would make it more difficult to get around Victoria Street to the extent that the application should be refused. Torbay Highways remit includes ensuring that development proposals do not obstruct the pavement. Highways have been consulted on the application and raised no objection. Officers do not consider that the wording of Policy PNP12 can be read as suggesting that proposals for new street furniture along Victoria Street should be refused. Officers note the aspirations set out in the Paignton Masterplan for further use of the street for café seating and markets etc. and again do not feel that the proposed FSU would conflict or be out of character with such proposed uses. As noted above, the focus for decluttering Victoria Street in the Masterplan is at the junction of Torquay Road and Palace Avenue to create a new Palace Square.

Officers also do not consider that the proposed FSU would detract from the existing view up Victoria Street from the station given its modest width of 1.34m.

Officers recognise that the proposals will not result in a “recapture of the historic character of the old town” but, equally, Policy SDP1 is a Strategic Policy setting out a broad aspiration for regenerating Paignton and officers do not consider that the wording of this policy precludes the proposal under consideration (i.e. the policy does not say that any proposals that do not lead to contribute to the recapture of the historic character of the old town should be refused).

The proposal is therefore considered to be in accordance with the National Planning Policy Framework and Policies SDP1, DE1, PNP1(c), PNP12 and the Paignton Masterplan.

Neighbour amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes visual intrusion and light pollution.

Officers have considered the proposed operation of the FSU i.e. static images changing lit to a maximum of 280 cd/sqm in darkness between 05:00am to 02:00am. Officers consider that this would be unlikely to detract from the visual amenity of the area, either in terms of the street scene generally, or when viewed by neighbours i.e. local businesses and residents of any flats that may exist above these units.

Torbay Community Safety have been consulted on the proposals and have replied with no objections.

The proposal is therefore considered to be in accordance with Policy DE3.

(ii) Aural amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes the impact of noise.

A planning condition can be used to ensure the FSU is silent.

The proposal is therefore considered to be in accordance with Policy DE3.

Summary

The proposals are considered acceptable in relation to visual and aural amenity.

3. Public Safety

An objection has been made by Paignton Neighbourhood Forum that the proposed FSU would create a space for miscreants to hide behind and could lead to muggings or assaults.

Officers consider that the risk of this happening is very low. The Police have been consulted and have replied with no objections.

Torbay Highways were involved in the pre-application discussions described earlier in this report in respect of the site under consideration and also the five additional sites in Torquay and have not raised this issue as being a concern.

The proposed FSU has been positioned so as not to obstruct Victoria Street to pedestrians or reduce visibility for drivers along Hyde Road.

Torbay Highways have been consulted on the proposals and have replied with no objections. It should be noted that while the specification included with the proposals states that image change will be via “smooth fade” the applicant has since clarified that *“I am advised by our Digital Support team that a software change was made to our displays just prior to the application’s submission, which now sees displays change in a more instantaneous way ...”*. The manner of screen change can be seen on a video clip of an FSU in operation that the applicant has supplied and which can be viewed on the Torbay website. Torbay Highways have confirmed that they have no objection to this change:

“Providing the images are static and no intermittent light sources, flashing lights, moving parts or features are shown, Highways would raise no objection”.

The proposals are therefore considered to be acceptable in terms of public safety.

Conclusion

As the proposals have been assessed by officers as being acceptable in terms of visual and aural amenity and public safety the proposals are considered to be in accordance with policy DE6.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA:

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.

HRA:

Not applicable.

Planning Balance

This report gives consideration to the issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

Proactive Working

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.

Conclusions and Reasons for Decision

The proposal is: acceptable in principle and would not result in unacceptable harm to the Visual or aural amenity or public safety. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to the conditions detailed below and subject also to no new material planning considerations being raised within the remaining consultation period. 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, Housing and Climate Emergency.

Conditions

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. No advertisement shall be sited or displayed so as to—
(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
(b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The intensity of the illumination of the sign shall not exceed 280 candela/m².

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

7. The sign shall only display static images.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

8. The sequential advertisements shall not change more than once every 10 seconds.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

9. The sign shall only be operational between 05:00am and 02:00am (and shall be switched off between 02:00am and 05:00am).

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3, D6 and SS10 of the Adopted Torbay Local 2012-2030.

10. The sign shall be silent.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

11. The housing of the Free Standing Digital Display Unit shall be black or dark grey or any other colour that has been agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

Development Plan Relevant Policies

SDP1 Paignton
SS10 Conservation and the historic environment
HE1 Listed buildings
DE1 Design
DE3 Development amenity
DE6 Advertisements
PNP1(c) Design Principles
PNP12 Getting Around