

Friday, 9 July 2021

PLANNING COMMITTEE

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

Monday, 19 July 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 Dart

Councillor Dudley

Councillor Hill

Councillor Kennedy

Councillor Barbara Lewis

Councillor Mills

Councillor Jacqueline Thomas

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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. 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.)

3. Urgent Items

To consider any other items that the Chairman decides are urgent.

4. **35 Langdon Fields, Brixham TQ5 0PJ P/2021/0398** (Pages 4 - 12)
Formation of integral single garage to front

5. **Land Adjacent To Roselands County Primary School, Lynmouth Avenue, Paignton TQ4 7RQ P/2021/0208** (Pages 13 - 27)
Change of use from green space to a fenced play area for use by Roselands County Primary School.

6. **50 Victoria Street, Paignton, TQ4 5EQ P/2021/0410** (Pages 28 - 36)
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, 14 July 2021. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

TORBAY COUNCIL

Application Site Address	35 Langdon Fields Brixham TQ5 0PJ
Proposal	Formation of integral single garage to front.
Application Number	P/2021/0398
Applicant	Mr Tony Dyke
Agent	Mr Nicholas Lebrasse - Lebrasse Partnership
Date Application Valid	06/04/2021
Decision Due date	01/06/2021
Extension of Time Date	14/07/2021 - TBC
Recommendation	Conditional approval subject to the conditions detailed below.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as Councillor Kennedy had concerns regarding the officer recommendation. Councillor Kennedy felt that the amendments made to the application are not significant enough to overcome the reasons for previous refusals and dismissal of the appeal in 2019, specifically regarding the siting of the garage and whether the garage acknowledges the local distinctive character of the area and fails to relate to the surrounding built environment in terms of scale, size, and massing. Therefore, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Katie Greer

Location Plan:

SITE LOCATION PLAN 1:1250
(As Existing)



Site Details

The site, 35 Langdon Fields, Brixham, comprises of a detached dwelling located within a corner plot, along a residential road. 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 formation of integral single garage to front with associated planting to the side and front. The garage would measure internally 3.59m x 6.11m, which meets the requirements for a standard garage set out in Appendix F. The garage will be sited to the front of the existing dwelling and would be visible from the road. The garage will be finished with white painted render and concrete roof tiles to match the existing dwelling, with established planting to the side and front of the garage to soften the effect on the streetscene.

Pre-Application Enquiry

DE/2020/0130: Construction of single garage on site. Letter sent 21.01.2021 with favourable outcome.

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 Paignton 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/2017/0507: Demolition of existing garage, erection of single storey side/rear extension, infill extension and front porch (revised plans received and description amended 10.07.2017). Approved 18.07.2017

P/2018/0600: Erection of new garage. Refused 23.07.2018

P/2018/1201: Formation of garage to front (in addition to application P/2017/0507) (resubmission of P/2018/0600). Refused 08.03.2019

DE/2020/0130: Construction of single garage on site. Letter sent 21.01.2021

Summary of Representations

The application was publicised through neighbour notification letters. Approximately 3 letters of objection have been received.

Concerns raised include:

- Noise
- Impact on streetscene
- Sets precedent
- Drainage
- Not in keeping with local area

Summary of Consultation Responses

Brixham Neighbourhood Forum:

No response 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 Ecology
5. Impact on Flood Risk and Drainage

1. Principle of Development

The proposal seeks permission for the formation of an integral single garage to front.

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.

2. Impact on Visual Character

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 DE5 of the Local Plan states that extensions

to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy BH5 of the Brixham Peninsula Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area.

A previous application was submitted for a similar proposal, which was refused for the following reason:

The scale and size of the proposed garage, and its prominent position forward of the established building line, would result in an incongruous addition within the streetscene, which would fail to respect the established form and layout of the surrounding built environment. As such, it is considered that the proposal would result in unacceptable harm to the character of the area, contrary to Policy DE1 of the Torbay Local Plan.

An appeal was submitted to the Planning Inspectorate in respect of the refused application, Appeal number: APP/X1165/D/19/3227678, which was dismissed by the Inspectorate for the following reasons:

- *The proposed garage due to its forward siting, scale and massing would appear incongruous and would fail to relate to the established form and layout of surrounding development and would result in unacceptable harm to the distinctive character of the area.*
- *Although there are other examples of garages and other extensions situated front of the building line on Langdon fields, none of the garages and extensions identified project forward of the existing front wall of the dwelling they serve, to the same degree as the appeal proposal i.e., they are not sited entirely forward of the dwelling they serve.*
- *Planting on the front boundary is proposed to screen the garage to an extent, however planting takes some years to mature and the retention of trees or hedging cannot be guaranteed, given the concerns regarding the inappropriate sighting of the garage this is not a matter to which I attach much weight*
- *I find that the development proposal would fail to acknowledge the local distinctive character of the area, would fail to relate to the surrounding built environment in terms of size, scale and massing and would fail to integrate with the existing street scene of Langdon fields contrary to policy DE1 of the Torbay local plan.*

Following on from this appeal decision the applicant submitted a pre-application enquiry to determine whether the amendments made would be considered by officers as acceptable and would meet the concerns of the Inspectorate.

On balance it was felt that the pre-application proposal adequately addressed the concerns raised by the Inspector and due to the increased distance to the front boundary and the revisions to the design, which presented a more integrated addition, the garage manages to relate to the local built environment sufficiently and acknowledges the local character notwithstanding its location to the front.

The garage measures 3.72m in width, 3.74m in height and 6.17m in length. The change in design to a pitched roof from a flat roof, which is submissive to the main roof scape, and with the garage being set back further from the road by 2.04m compared to previous scheme, it is considered to integrate with the existing dwelling, and would respect the design and character of the existing dwelling and area, as stated in Policy DE1 and BH5.

Considering these amendments to the proposal, it would not result in any unacceptable harm to the character or visual amenities of the locality. In the pre application enquiry it was suggested that the proposal would be acceptable if it could be softened by landscaping, to make it more appealing in terms of the visual impact on the existing dwelling and streetscene. A brick faced raised planter offset with a trellis on the southern elevation is proposed to make the garages sympathetic to the character and appearance of the surrounding area, with planting also proposed on the front Eastern elevation to screen the garage. This will also be conditioned so the planting is retained indefinitely.

Given the siting, scale, and design of the proposals it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality, subject to an adequate landscaping scheme as touched on above.

The proposal is considered to be in accordance with Policies DE1 and DE5 of the Local Plan, Policy BH5 of the Brixham Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Paragraph 127 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.

Objectors have raised concerns regarding the impact the garage could potentially have on the streetscene, as they feel the garage would set a precedent and would not be in keeping with local area.

Given the siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. There will be no significant loss of light or privacy. A brick faced raised planter offset with a trellis on the southern elevation is proposed to soften the appearance of the garage, so it is not so overbearing.

The proposal is considered to accord with Policy DE3 of the Local Plan.

4. Parking And Access Requirements

Policy TA2 of the Local Plan states that 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 and Appendix F of the Local Plan states the minimum dimensions for parking spaces, including garages.

Appendix F of the Local Plan and the Council's highways department standing advice states that the minimum single garage internal dimensions should be 6m by 3.30m, to provide internal circulation space (1m on driver's side and 0.45m for passenger vehicle door opening). The proposal seeks to create a garage to the front of the dwelling. The proposed garage would meet the Council's parking requirements, as it measures 3.59m x 6.11m.

The proposal is therefore considered acceptable with regards to Policies TA2, TA3 and Appendix F of the Local Plan.

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. Policy PNP1(i) 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. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice

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 Brixham Peninsula 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 on balance is considered acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity. The proposed development is considered to be acceptable for planning approval to enable the grant of planning permission, having regard to the Local Plan and the Brixham Peninsula Neighbourhood 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

Flood risk

In accordance with the submitted flood risk assessment received 02.03.2021, 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 40% 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 paragraph 103 of the NPPF.

Matching Materials

The garage hereby approved shall be clad in materials matching 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 Adopted Torbay Local Plan 2012-2030 and with the Brixham Peninsula Neighbourhood Plan.

Garage Use

The garage hereby approved shall at all times be maintained solely for the principal purpose of the parking of vehicles incidental to the occupation of the dwelling and shall at no time be used for commercial purposes or ancillary residential use.

Reason: To retain an acceptable form of development within a restricted plot, in accordance with Policies DE1, DE3 and TA3 of the Adopted Torbay Local Plan 2012-2030.

Planting

Prior to the first use of the development hereby approved, a scheme of soft landscaping to include species, size and maintenance regime following planting, shall be 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.

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy BH5 of the Adopted Brixham Peninsula Neighbourhood 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

DE5 – Domestic Extensions

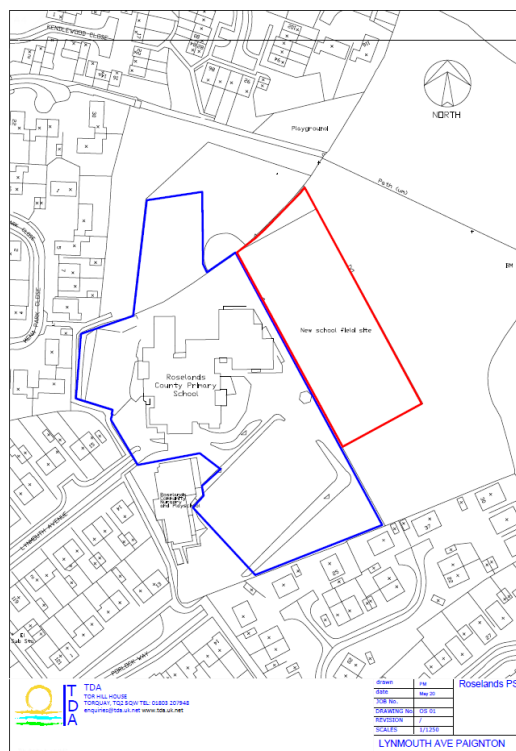
ER1 – Flood Risk

BH5 – Good Design and The Town and Village Design Statements

TORBAY COUNCIL

Application Site Address	Land Adjacent To Roselands County Primary School Lynmouth Avenue Paignton TQ4 7RQ
Proposal	Change of use from green space to a fenced play area for use by Roselands County Primary School.
Application Number	P/2021/0208
Applicant	Torbay Council
Agent	Mr Richard Sutton – Torbay Development Agency
Date Application Valid	22/04/2021
Decision Due date	17/06/2021
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to resolving any outstanding ecological matters and 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:



Site Details

The site forms part of an area of open land within Clennon Valley, Paignton and is approximately 4,851 square metres and is currently semi-improved neutral grassland and hedgerow. The site is within the Clennon Hill/Roselands Valley Urban Landscape Protection Area and is within an other site of wildlife interest.

Description of Development

The proposal seeks permission for a change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School. The site would be enclosed by a 2 metre high green weldmesh fence and two pedestrian access points into the site, as well as a 3 metre wide double gate for vehicular access.

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 Paignton 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

No relevant planning history relating to the site.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Approximately 6 letters of objection have been received.

Concerns raised include:

- Impact on local area
- Sets precedent

- Trees and wildlife
- Not in keeping with the local area
- Overdevelopment
- Residential amenity
- Traffic and access -> This matter is not a relevant material planning consideration to this application as the proposal does not increase staff or pupil numbers, nor does it impact the existing vehicular movements or access.

Summary of Consultation Responses

Paignton Neighbourhood Forum:

No response received.

Torbay Council's Highways Engineer:

No response required.

Torbay Council's Drainage Engineer:

I can confirm that as this development is located in Flood Zone 1 and the planning application relates only to the erection of fencing that will not increase the impermeable area of the site, I have no objections on drainage grounds to planning permission being granted.

Torbay Council's Senior Tree and Landscape Officer:

Please ensure that a method statement for the installation of the fence is submitted - this would preferably be pre-commencement so that that it is agreeable to ourselves.

Torbay Council's Senior Strategy and Project Planning Officer:

I refer to the above consultation to incorporate an area of public open space into Roselands Primary school. I was involved with the TDA at pre-application stage, as the proposal is part of wider measures needed to increase primary capacity serving Paignton. Additional accommodation was approved at Roselands Primary School under P/2018/1214, which included the requirement for a Travel Plan. (Other measures being the opening of the re-purposed Tower House School, and planning for a second primary school on the west of Paignton).

The current proposal encloses an area of public open space for school use. In my view the key strategic planning issue is balancing the needs of the school against the loss of public access and impact on the urban landscape protection area (C5.44) and other site of wildlife interest (OSWI). Paragraph 94(a) of the NPPF requires local authorities to give "great weight to the need to create, expand or alter schools". The proposal is supported by Policies SC3 and SC5 of the Local Plan. Whilst the enclosure of ULPA may have some effect on its value as an "open or landscapes feature within the urban area", the field will remain undeveloped and hedgerows etc. will remain. Therefore the impact on the ULPA is likely to be small. The fence is necessary for safeguarding

purposes. It may be worth protecting the hedge and requiring the bird boxes etc. to be provided through a planning condition.

I appreciate that the proposal will remove an area from public use. However, it is only a small part of the wider Roselands/Clennon area, and I understand does not require the moving of a formal footpath. The land will remain within recreation use, albeit by the school's pupils rather than the general public. As such I do not consider that there is a conflict with Policy SC2 of the Local Plan.

On the basis of the above, I support the application.

Torbay Council's Senior Environmental Health Officer:

No objections.

Police Designing Out Crime Officer:

I have no objection in relation to the application but would like to make the following comments and recommendations for your consideration.

I note that a 2m weldmesh fence will be used which is supported. In order to offer substantial protection and security of the staff and pupils, fencing certificated to a nationally recognised security standard such as LPS 1175 SR1 could be considered.

Dark colours are recommended as they reduce the reflection of light and therefore aid surveillance opportunities.

Gates within the perimeter fencing should match the design, height and construction of the adjoining fence and not compromise security. They should also be of an anti-climb design and if there is an inner lock release, it must be shielded to prevent anyone reaching through to unlock to mechanism.

Natural England:

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website.

RSPB:

Thank you for the consultation (24 April); I hope these comments are helpful. Whilst RSPB recognises the need to provide schoolchildren with access to safe outside natural space, we have concerns because the proposal will result in loss of some habitat and existing public greenspace and in our view there is not an appropriate level of mitigation or biodiversity net gain.

The 0.4851 ha application site (as described in the Preliminary Ecological Appraisal (Ecology Services, 14/7/19)) is semi-improved grassland with scrub, hedge and trees. It is within the Grange Farm other site of wildlife interest (OWSI) and borders farmland that links to the Clennon Valley. The proposal will result in the grassland management changing from being mown annually to being mown monthly (becoming amenity grassland, a very different habitat), so in the RSPB’s view this will reduce the biodiversity value of the semi-improved grassland. Also, installation of a 2m high mesh wire fence will involve removal (and trimming back) of an unspecified amount of the existing scrub and hedgerow.

The PEA noted the likelihood of scrub and hedgerow to host nesting birds and that the site is in an area where suitable habitat could support ciril buntings (a bird of high conservation concern) but considered the proximity to urban development and the level of public use meant ciril buntings would not be present so did not consider them further. While RSPB has no records of ciril buntings at this site from national surveys, we would like to highlight that ciril buntings do breed on suitable farmland habitats around the edges of villages, towns and larger conurbations such as Paignton and Torquay (hence its traditional name ‘village bunting’) so the potential for their presence should not be discounted on the basis of public access and proximity to urban development.

The PEA also noted that another environmentally consultancy was carrying out reptile and dormouse surveys on the site in 2019 (which indicates the habitat has the potential to support those animals) but no information is presented to know if they were found

on site. The PEA recommended that Torbay Council liaise with the consultancy to determine if dormice or reptiles were recorded on the site (the Badger Survey and Ecological Update Addendum (April 2021) noted that dormice were found to be potentially absent from the site so their status on site seems unclear). The RSPB recommends this application is not determined until that information is known, as their presence may necessitate further mitigation measures.

The proposed mitigation measures (in the PEA and the Badger Survey and Ecological Update Addendum (April 2021)) are to minimise removal of scrub/hedge vegetation to put up the fence, to time that removal for outside the bird breeding season, to cut the grass down over winter to avoid impacts on any reptiles and to install a 2 way gate to allow for free passage of mammals such as badgers and hedgehogs.

The RSPB recommends that, if your authority decides to grant permission, it attaches conditions requiring removal of any hedge or scrub vegetation to be minimised and timed to avoid the bird breeding season March to mid September inclusive, and ideally to be done in winter and also that a biodiversity offset is calculated for the loss of the semi-natural grassland, to be delivered on other land owned by Torbay Council. The PEA proposed bird nest boxes on trees as biodiversity net gain and these should be secured by condition. The RSPB also recommends enhancing the wildlife and public access value of other local greenspace in Torbay Council's ownership.

We consider our comments align with national and local planning policy including: Torbay Local Plan policy NC1 Biodiversity and geodiversity which states "*All developments should positively incorporate and promote biodiversity features . . . Where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain for biodiversity through the creation or provision and management of new or existing habitats . . . If avoidance and mitigation are not sufficient, residual impacts must be off-set in a manner deemed acceptable by the Council.*"

Torbay Local Plan policy C4 Trees, hedgerows and natural landscape features which states "*Where the loss of, or impact on trees, hedgerows or landscape features is considered acceptable as part of development, replacement or other mitigation measures will be required through planning condition or legal agreement. These measures should at least offset any such harm, and preferably achieve landscape and biodiversity improvements, and make provision for on-going management.*"

The Natural Environment and Rural Communities Act (NERC) 2006 states "*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*"

The National Planning Policy Framework (February 2019) states in para 175 that "*. . . opportunities to incorporate biodiversity improvements in and around developments*"

should be encouraged, especially where this can secure measurable net gains for biodiversity.”

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The proposal seeks permission for a change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School.

Paragraph 94 of the NPPF states that local planning authorities should give great weight to the need to expand or alter schools through the decisions on applications.

Policy SC3 of the Local Plan specifies that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. Policy SC3 notes further that this includes the expansion of schools to meet identified short to medium-term needs. Policy SC5 of the Local Plan states that new development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. This includes the need to support investment in existing schools and make appropriate contributions, and improve equality of access to high quality education provision for all, including early-years education. The proposed development would improve the education facilities in the area. As such, it is considered that the principle of the development would accord with Policies SC3 and SC5 of the Local Plan.

It should be noted that the Council’s Senior Strategy and Project Planning Officer supports the proposed development. Policy SC2 of the Local Plan is applicable, whereby there will be presumption against loss of existing recreational and leisure facilities unless:

- i) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- ii) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- iii) The development is for alternative sports and recreational provision, the needs

for which clearly outweigh the loss.

Whilst the proposal removes an area of public open space, it does not require the removal of a formal footpath, although it will encroach over what appears to be an informal footpath within the ULPA. The land will remain within recreational use albeit by the school's pupils rather than the general public. The Council's Senior Strategy and Project Planning Officer considers that the proposal does not conflict with Policy SC2 of the Local Plan.

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.

2. Impact on Visual Character

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) 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 change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School. The site would be enclosed by a 2 metre high green weldmesh fence and two pedestrian access points into the site, as well as a 3 metre wide double gate for vehicular access. Objectors have raised concerns that the proposal is a form of overdevelopment, it is not in keeping with the local area, it will have a negative impact on the local area and it will set an unwanted precedent.

The site is within the Clennon Hill/Roselands Valley Urban Landscape Protection Area. It is important to give consideration to the Urban Landscape Protection Area (ULPA) designation on site in relation to the potential impact the proposal may have.

The site is located within an area designated as an ULPA as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an ULPA will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and

2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

The Council's Senior Strategy and Project Delivery Planning Officer has stated that whilst the enclosure of ULPA may have some effect on its value as an "open or landscaped feature within the urban area", the field will remain undeveloped and hedgerows etc. will remain. Therefore, the impact on the ULPA is likely to be small. The fence is necessary for safeguarding purposes. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA. It is considered that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the ULPA in terms of the proposal not undermining the value of the ULPA as an open or landscaped feature within the urban area and making a positive contribution to the urban environment and enhance the landscape character of the ULPA, subject to a suitable landscaping scheme.

Notwithstanding the consultation comments above Officers consider that the proposal would result in some harm to the character and visual amenity of the locality, as the proposal will alter the natural appearance of the area. The proposal includes an angular enclosure and could include associated outdoor school paraphernalia that will detract from the natural appearance of the site. In such a case it is necessary to consider whether there are public benefits which would outweigh the harm.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Paragraph 127 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.

Objectors have raised concerns regarding residential amenity. The proposed development is some 35-45 metres from the nearest residential curtilages. The Council's Senior Environmental Health Officer has been consulted on this application and raises no objections. Given its siting, scale, and design of the proposals, it is considered that the proposals would not result in any unacceptable harm to the amenities of neighbours.

The proposal is considered to accord with Policy DE3 of the Local Plan.

4. Impact on Ecology

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

The 0.4851 ha application site is semi-improved grassland with scrub, hedge and trees. It is within the Grange Farm other site of wildlife interest (OWSI) and borders farmland that links to the Clennon Valley. The application is supported by a Preliminary Ecological Appraisal (PEA) (July 2019) and a Badger Survey and Ecological Update Addendum (April 2021). The PEA noted the likelihood of scrub and hedgerow to host nesting birds and that the site is in an area where suitable habitat could support ciril buntings but considered the proximity to urban development and the level of public use meant ciril buntings would not be present.

It should be noted that the site does not have any tree preservation orders on site, and the site can be cleared without requiring permission from the Local Planning Authority however no tree removal is proposed as part of this development. The proposal will result in the grassland management changing from being mown annually to being mown monthly, becoming amenity grassland. Objectors have raised concerns regarding trees and ecology. Natural England raises no objection to the proposal, stating that Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

The RSPB have been consulted on the proposal and have recognised the need to provide schoolchildren with access to safe outside natural space, however they raise concerns that the proposal will result in loss of some habitat and existing public greenspace and does not provide an appropriate level of mitigation or biodiversity net gain. The RSPB recommends that, if permission is granted, conditions requiring removal of any hedge or scrub vegetation to be minimised and timed to avoid the bird breeding season March to mid September inclusive, and ideally to be done in winter and also that a biodiversity offset is calculated for the loss of the semi-natural grassland, to be delivered on other land owned by Torbay Council. The PEA proposes bird nest boxes on trees as biodiversity net gain and these should be secured by condition.

The PEA also noted that another environmentally consultancy was carrying out reptile and dormouse surveys on the site in 2019 (which indicates the habitat has the potential to support those animals). The applicant has provided the survey work, which states that no dormice or evidence of dormouse activity was recorded during the survey. The survey also covers reptiles, reptile felt locations were placed within the application site and slow worms were located nearby.

An update will be given to Members at Planning Committee given that Devon County Council have been consulted on this application and their response is yet to be received.

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. Policy PNP1(i) 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 the application has been accompanied by a flood risk assessment. The Council's Drainage Engineer was consulted on the proposal and confirms that the site is within Flood Zone 1 and the planning application relates only to the erection of fencing that will not increase the impermeable area of the site, therefore raises no objections on drainage grounds to planning permission being granted.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Educational development is important for individual growth and the economy and there would be economic benefits to the construction industry from the proposed development.

There are no adverse economic impacts that would arise from this development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional educational facilities. Given the NPPF, great weight should be given to the expansion of schools and therefore the proposal must carry great weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development.

The Environmental Role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape in particular the urban landscape protection area; ecology and biodiversity; and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. There will be harm to the landscape quality of this immediate area which weighs against the proposal.

It is concluded that the environmental impacts of the development weigh negatively in the planning balance.

Sustainability Conclusion

Whilst the development is not wholly sustainable having regard to the environmental impacts the social benefits of improved educational facilities weigh heavily in favour of the development

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 whilst the proposal will harm the visual amenity of the site, when considering the planning balance the public benefit outweighs such harm. Therefore, on balance the proposal is considered to acceptable having regard to the Development Plan taken as a whole.

Conclusions and Reasons for Decision

The proposal is considered acceptable in principle; it would provide acceptable arrangements in relation to ecology and flood risk, whilst there will be some harm to the visual amenity of the area this is outweighed by the great weight that is given to providing improved educational facilities. On balance the proposed development is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to resolving any outstanding ecological matters and 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

Removal of Vegetation

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

Ecology Report Recommendations

The development hereby approved shall be carried out in accordance with the mitigation measures and recommendations outlined within the submitted and approved Preliminary Ecological Appraisal (July 2019) and the Badger Survey and Ecological Update Addendum (April 2021).

Reasons: In the interests of ecology and biodiversity, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

Boundary Treatment

Prior to the first use of the development hereby approved, the boundary treatment shown on the approved plans shall be fully installed and 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 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Hedge and Tree Protection

No hedge or trees that are within or border the site shall be felled, pruned or cut back other than in accordance with a landscape and ecological management plan (LEMP) that shall have previously been submitted to and approved in writing by the LPA prior to the change of use commencing. The LEMP shall also include details of how the retained vegetation will be protected from damage from users of the approved development.

Reason: In interests of visual amenity and ecology and biodiversity, in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood 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.
2. 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.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

PNP1(c) – Design Principles

PNP1(i) – Surface Water

SS3 – Presumption In Favour Of Sustainable Development

SS11 – Sustainable Communities



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 Torquay 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.

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).

Torbay Highways: No objection.

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 via smooth fade 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 Winner Street 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 is 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 Winner Street 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 via smooth fade and 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.

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. 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.

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 TH8 of the Adopted Torquay 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 TH8 of the Adopted Torquay 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 TH8 of the Adopted Torquay Neighbourhood Plan.

9. Any sequential change between advertisements will take place via smooth fade.

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 TH8 of the Adopted Torquay Neighbourhood Plan.

10. 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.

11. 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 TH8 of the Adopted Torquay Neighbourhood Plan.

12. 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 TH8 of the Adopted Torquay 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