

**Application Number**

P/2012/1152

**Site Address**Elberry Heights  
16 Stone Park  
Paignton  
Devon  
TQ4 6HT**Case Officer**

Mr Robert Pierce

**Ward**

Churston With Galmpton

**Description**

Extend time limit - demolition of existing dwelling and erection of new dwelling - application P/2010/0039

**Executive Summary/Key Outcomes**

Planning Approval P/2010/0039 was granted for a replacement dwelling on the site on 15th April 2010 by the Development Management Committee. This approval is extant and therefore commencement works for the approved replacement dwelling can still be carried out at any time up to 14th April 2013. This application is a re-submission of the previous scheme with no changes proposed.

In addition to assessing this application against relevant policies, it is also important to consider if there have been any material changes in circumstance which would warrant the LPA making a different decision to that previously reached, by the LPA planning Committee.

Since the date of the previous planning approval, the only material change in circumstance relevant is that the Government has introduced the National Planning Policy Framework (NPPF), while this does represent a material change, the policies of the Local Plan have been assessed against the NPPF and are deemed to be in compliance with the general aims of the NPPF. As such, it is officer opinion that there have been no material changes in circumstance that would alter the previous recommendation for conditional approval.

**Recommendation**

Site visit

**Summary Of Representations**

Numerous letters of objection have been received. The main thrust of these objections is that the new design will be out of keeping with the existing area,

over development of the site, would not sit well with adjacent properties, noise from building works, height of proposal, concerns over demolition and construction work, amount of increase in accommodation, overlooking, potential for subsidence, loss of light and general amenity to neighbours, overlooking and loss of privacy, concern about drainage and flooding, unsympathetic appearance, potential policy objections and scale of development. These have been re-produced and placed in the Members Room.

### **Relevant Planning History**

P/2005/1362 Alterations, erection of first floor extension and raising of roof at 16 Stone Park. Refused 27/10/05 on the basis that the proposal would be detrimental to the character and appearance of the streetscene and the area and to the residential amenity of adjacent occupiers contrary to policies H15, BE1 and the Environmental Guide of the Torbay Local Plan.

P/2005/1929 Alterations and erection of first floor extension and raising of roof (revised scheme). Refused 13/12/05 for similar reasons as per previous application with the addition of precedent arguments. However, this application was subsequently allowed on appeal.

P/2010/0039 Demolition of existing dwelling and erection of new dwelling  
Approved 15/04/2010

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

The key issues in determining the previous application were considered to be the principle of re-development of this site, whether or not the proposed replacement dwelling was appropriate in relation to size, design, impact on neighbouring properties, impact on streetscene, car parking and policy considerations. These are the same considerations that are relevant to this application, with the addition as to whether there have been any material changes in circumstance.

In relation as to whether there have been any material changes in circumstance since the date of the previous planning approval, the Government has introduced the National Planning Policy Framework (NPPF), while this does represent a material change, the policies of the Local Plan have been assessed against the NPPF and are in general terms deemed to be in compliance with the general aims of the NPPF. As such since the assessment of the previous application against the relevant policies of the local plan, there have not any material changes in circumstance that would alter the previous recommendation for conditional approval.

**For members convenience the previous officer report is provided below, which considered the application against the relevant policies of the Saved Adopted Torbay Local Plan 1995-2011:**

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## Previous Planning Officer Report

### **Relevant Policies**

Saved Adopted Torbay Local Plan 1995-2011

- H9 Layout, Design and Community aspects
- H15 House Extensions
- BES Built Environment Strategy
- BE1 Design of New Development
- EPS Environmental Protection Strategy
- EP1 Energy Efficient Design
- EP11 Flood Control
- T25 Car Parking in New Developments

### **Proposals**

Permission is sought to demolish the existing dwelling on the site and replace it with a new single dwelling, that makes more effective use of the site, modernises the accommodation available, and updates and modernises facilities and the appearance of the dwelling. Accommodation is shown on 3 levels with the lower ground floor being mainly garaging, storage and utility areas. Accommodation at the ground and first floor levels would be obtained by building back towards the rockface which exists at the rear. The rear garden is at a much higher level and therefore, there would only be one level of accommodation visible at this point. The overall volume of accommodation available with this new proposal would be greater than that which currently exists, although a previous scheme for re-development which was allowed on appeal, did establish the principle of greater development at the site. The proposed new roof ridge level is for the most part, lower than the scheme allowed on appeal, although in its centre, it does reach, but not exceed the height of the appeal approved scheme. The proposal includes garaged and surface parking for vehicles at the front of the property.

### **Consultations**

None.

### **Representations**

The main thrust of these objections is that the new design will be out of keeping with the existing area, would not sit well with adjacent properties, noise from building works, height of proposal, concerns over demolition and construction

work, amount of increase in accommodation, overlooking, potential for subsidence, loss of light and general amenity to neighbours, unsympathetic appearance, potential policy objections and scale of development.

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

The primary consideration has to be the principle of re-development of this site. The curtilage currently has one single dwelling house upon it, and the proposal is to replace it with one single dwelling house. Therefore, in principle there can be no objection to the proposed use. In any event, it needs to be borne in mind that the appeal decision in October 2006 allowed alterations, erection of first floor extension and the raising of the roof at this property. That decision is still extant and capable of implementation. What that decision establishes is that a larger property with a higher roof can be achieved at the site. This current proposal is in fact an opportunity to improve the visual appearance of any new building at the site and the pertinent consideration will be how much extra volume and height is acceptable.

The next considerations will be therefore, whether or not the proposed replacement is appropriate. In this context, the considerations will be size, design, impact on neighbouring properties, impact on streetscene, car parking and policy considerations.

With regards to size, it is clear that the proposal seeks permission for a greater amount of accommodation at the site. However, it could only be concluded that the site was being overdeveloped if there was some identifiable harm to interests of acknowledged importance such as appearance in the streetscene or upon neighbours. Government advice is that Local Planning Authorities should seek to maximise the re-use of Brownfield and residential land in order to achieve more efficient use of land and reduce the pressure on Greenfield and countryside sites. This current proposal comes no further forward than the existing dwelling, would be no higher in its roof ridge than that which has been allowed on appeal, but would come marginally closer to properties on either side. On this basis, officers do not conclude that the size is so significantly in excess of what is acceptable to conclude that the site would be being overdeveloped. So long as the property remained as one residential unit, it is not considered that there would be an overdevelopment of the site.

The design of the property is perhaps the most contentious of all of the issues to be considered. This proposal is clearly for a modern design that takes little reference from the surrounding residential properties. However, there is no precedent in planning law or in generally agreed planning principles that states that properties have to respect, mimic or serve as pastiches to neighbouring dwellings. In the context of Conservation Areas or historic quarters of our towns and cities, there may be a desire to achieve a degree of uniformity and similarity. However, in a modern residential estate with no historic context, such principles would not hold strong planning weight. In order to construct a reason for refusal

based on design, it would have to be shown that the appearance of the property was so detrimental to visual amenity that it would be harmful to the environment. The fact that the proposal is for a modern dwelling that differs from the surrounding environment would not in itself do so. There is already a significant contrast in the estate between bungalows and houses and roof pitches and designs and the proposal would add one more piece of architectural variety to the environment. It is not considered therefore that the property would be so out of place that it should be refused for this reason alone. Indeed, variety can often add interest to the visual amenities of what could otherwise be seen as unattractive similarity and uniformity.

The impact that might arise from the proposal upon neighbouring properties, particularly those either side, is a relevant and valid consideration. The fact that the proposed dwelling is slightly wider need not in itself be a problem unless that extra width would lead to either loss of light or loss of privacy. As the land slopes down from Stone Park towards Lower Fowden, and the front of the property is to the north east such that most sunlight would come at the rear of the property, loss of light is not considered to be a difficulty that should result in refusal in this instance. Members may wish to give special concern to the amount of glazing shown on the side elevations, although it should be borne in mind that this is partly a response to accommodation at the back being formed within the rockface that exists at the rear.

The impact of the proposed new property on the streetscene is less clear. 16 Stone Park commands a prominent position within a sloping streetscene being one of the first properties in view when one enters the cul-de-sac off Lower Fowden. It is the officers view that a more dominant building acting as an attractive endpoint for the vista would be acceptable and probably an improvement on the existing and appeal situations. Fortunately, there is a variety of dwellings types within the locality with alterations having been made to many of them and therefore it would not look out of place to have a different design on this site. Although number 16 is in a row of bungalows, it is at the end, with the first of a row of dwellings presenting 2-storey elevations to the street on the uphill side. Number 16 is thus very much a transitional site which serves to link the 2 forms of dwellings. It is not considered that the proposal upsets this balance. In fact, it could be taken as a generator for positive change to enliven this 1960's residential estate. One of the more important elements in establishing fit within the streetscene will be the height of the proposed new roof and its ridgeline. There is already a congruent roof level established within the streetscene that follows the slope of the road. It is crucial that the roof ridge of the proposed dwelling does not protrude above any arbitrary line linking the roof ridges of the existing dwellings at number 17 and 15 either side. The submitted drawings show that this can be achieved. The highest point on the new roof appears to be some 1.3 metres below the ridge of number 15 and approximately 1.7 metres above the ridge at number 17. Datum levels have been submitted to verify this point. It is also noted that the front face of the proposed new dwelling does not

protrude forward of the existing building line so the proposal would not lead to an added prominence within the streetscene.

With regards to car parking issues, the proposal shows 2 car parking spaces within a garage at ground floor level and 2 surface parking areas in front of this. This is more than adequate to meet the Council's car parking standards.

Whether or not the proposal meets the test imposed by policies within the Saved Adopted Torbay Local Plan really depends upon ones views to the comments raised above. It is officers views that the proposal is not over-developing the site and that the design although different from surrounding properties is acceptable, therefore it is not considered that there would be a valid objection to Policy H9 of the Saved Adopted Local Plan. Policy H15 really concerns itself with house extensions, whereas this proposal is for a house re-build, nethertheless the principles are appropriate considerations in this instance. It is considered that the plot would not over develop the site and could be made to fit in with neighbouring properties without causing harm to amenity or through overlooking. On this basis, it is not considered that there can be a valid objection on the grounds of policy H15. The relevant policies in the Environmental Protection Section of the Saved Adopted Local Plan are policies which any new re-development would have to meet and this can be achieved. The proposal clearly meets the tests imposed by Policy T25 in respect of car parking. Whether or not the proposal meets the tests imposed by policies BES and BE1 in the built environment section of the Saved Adopted Local Plan is a somewhat subjective consideration. The proposal is clearly different and does seek approval for a house that neither replicates nor takes reference from immediate surrounding properties. It is the case though that this should not in itself be a reason for refusal, only if that difference leads to significant harm to interests of acknowledged importance. Officers have argued that this is not the case and therefore it is not concluded that there should be any objection based on policy BES or BE1. On the basis of all of these considerations therefore, it is not considered that there could be any valid objections to the proposal based on policy issues as identified in the saved Adopted Torbay Local Plan.

**Sustainability** - This proposal seeks the re-development of a Brownfield residential site, and therefore the proposal is highly sustainable meeting all the tests imposed by National and Local Policy Guidance. However, it is important to realise that such a high degree of sustainability should not necessarily take precedent over other issues of acknowledged planning importance.

**Crime and Disorder** – It follows that with such a highly designed and costly solution to the provision of additional accommodation at this site, the applicant will wish to place appropriate protection and security measures at the property. However, this will primarily be his responsibility rather than one which should concern the planning process. The proposal includes the ability to park vehicles within a secure garage and the property itself allows for plenty of surveillance to

minimise security risks.

**Disability Issues** - The garage is integral to the property although access through the building is by means of a stairwell. This however, is no different from any other multiple storied dwelling house and is not considered to be an issue that would bring the property foul of Part M of the Building Regulations.

### **Conclusions**

The chosen solution for the future residential use of this site is both bold, different and innovative. This however, need not in itself cause doubt about the acceptability of the scheme. In order to justify refusal, any proposal has to have identifiable harm to interests of acknowledged importance. In this instance, it is officers views that based on the scheme that was previously allowed on appeal for this site and an acceptance that Local Planning Authorities should be encouraging the maximisation and efficient use of Brownfield sites, it is officers opinions that any decision to refuse this application would not be sustainable on appeal. Nevertheless, the proposal clearly introduces a new design ethos into this residential estate and has caused much concern amongst neighbouring and surrounding residents. For this reason, it is suggested that Members visit the site in order to assess the considerations raised by this application for themselves.

### **End of Previous officer report**

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**S106/CIL** -  
Not applicable

### **Conclusions**

Despite the publication of the NPPF there are not considered by officers to be any material changes in circumstance that would warrant the refusal of the application since the original approval, as such the application is recommended for conditional approval.

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

01. The development hereby approved shall not be commenced until details of all proposed boundary walls and fences have been submitted to and approved by the Local Planning Authority. The dwelling shall not be occupied until these have been provided in accordance with the approved details.

Reason To enable the Local Planning Authority to assess this element of the proposal, and ensure that the scheme is completed such that there will not be any adverse affect on any neighbouring property, and to ensure accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 –

2011).

02. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2008 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1 Classes A,B, C, E shall be carried out without the prior written consent of the Local Planning Authority.

Reason The site is small and in close proximity to neighbouring properties, and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and the area in general.

03. The development hereby approved shall not be used or occupied until the garage and car parking area and access thereto shown on the approved plans have been provided and made available for use, or to a stage previously agreed in writing with the Local Planning Authority. The car parking areas shall be kept permanently available for parking purposes to serve the development at all times thereafter.

Reason To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Torbay Local Plan (1995 – 2011) as adopted in April 2004, in the interests of highway safety, and in order to protect the residential amenities of the neighbourhood.

04. Prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage, and to accord with policy EP11 of the Saved Adopted Torbay Local Plan (1995 - 2011).

**Informative:**

A Sustainable Drainage Solution such as a soakaway should be designed and constructed in accordance with Building Research Establishment Digest 365. A Sustainable Urban Drainage System should be designed and constructed in accordance with Construction Industry Research and Information Association Document 522 for surface water disposal (Clean surface water and roof water should be kept separate from foul drainage systems).



05. The development hereby approved shall not be commenced until details of the colour type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development have been submitted to and approved by the Local Planning Authority.

Reason To allow the Local Planning Authority to assess this element of the proposal and ensure that the development does not prejudice the character and setting of the existing building, and the area in general, in accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 – 2011).

06. The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum.

Reason To enable the Local Planning Authority to fully assess the impact of the proposal and ensure a satisfactory form of development that is in keeping with the area and in accordance with policies H15, BES and BE1 of the Saved Adopted Torbay Local Plan (1995 – 2011).

### **Informative(s)**

01. The proposed development has been assessed against the criteria of Policies H9, H15, BES, BE1, EPS, EP1, EP11 and T25 of the Saved Adopted Torbay Local Plan 1995 to 2011 and is considered to be an acceptable form of development.

### **Relevant Policies**