

P/2011/0070/MPA

Clifton With Maidenway Ward

9 Central Avenue, Paignton

Demolition of building and formation of 9 new flats with associated car parking (as revised by plans received 3 May 2011)

Site Details

Victorian Villa and detached double garage on the northern side of Central Avenue in an area of mixed ages and designs of dwellings, accessed of a private unadopted road (Central Avenue in part).

Relevant Planning History

P/2007/1658 Alterations To Form 2 Flats To Lower Ground Floor And Formation Of Parking Area, approved 06.12.2007

P/2002/1690 Formation Of Flat At Basement Level, approved 17.12.2002

Relevant Policies

Saved Adopted Torbay Local Plan 1995-2011

H2 New housing on unidentified sites
H9 layout, design and community aspects
H10 Housing densities
H11 Open space
CF6 Community Infrastructure contributions
CF7 Educational contributions
L9 Planting and retention of trees
EP11 Flood control
BES Built Environment Strategy
BE1 Design of new development
BE2 Landscaping and design
T25 Car parking in new development

Proposals

Permission is sought to demolish the existing buildings on the site and replace it with a purpose built block of flats, designed to blend in with the original Victorian nature of the current building on the site. The current building has two storeys and a basement each with very high floor to ceiling heights. As such the proposed scheme is able to achieve four levels of development without unduly increasing the overall height of the structure. The scheme was originally submitted as 10 flats, but reduced to 9 following advice from the Torbay Design Review Panel.

The plans now show one flat at ground floor level, two effectively in the roof space and three units in each of the second and third levels. Car parking is provided on a 1:1 basis, mainly under cover at ground floor level, but with one space at the front of the property. Entrance into the flats is proposed via a central stairwell with front door onto the western side of the property in a similar position to the existing.

Consultations

Arboricultural officer: A mature beech tree at the front of the property covered by a T.P.O. has recently had to be removed as its central core was rotten. A replacement specimen will therefore be required.

Highways officer: The parking spaces, number and layout, are acceptable to highways. Highways do have concerns about additional dwellings on this private road, however, as the road currently serves many more than 5 dwellings the precedent has already been set and therefore highways would have no grounds for objection. Highways recommend improvements to the surfacing

of the carriageway but as it is a private road owned jointly by those accessing off of it, this would be a matter for negotiation with many difference parties which would make it difficult to secure through this planning application.

Design Review Panel: Generally welcomed the scheme, suggested some alterations which have now been incorporated into revised drawings which were advertised on 6th May. Notes of the DRP are reproduced at Page P.200.

Representations

Received and reproduced at Page P.200. The main concerns raised are as follows (in no particular order):

1. Extra traffic using private road
2. Drainage/sewage impact
3. Design not in keeping with other houses in the road
4. Potential for noise generation
5. Overdevelopment
6. Loss of light
7. More windows increasing overlooking
8. Soakaways are not an effective solution to surface water drainage in this area
9. Insufficient parking provision / small size of parking bays
10. Height of replacement building is out of character with others in road
11. Vehicular access arrangements will be detrimental to existing residential properties
12. Objections to the loss of the existing boundary wall
13. Access for emergency vehicles would be compromised
14. Would set a precedent for other re-building proposals
15. Front building line moving closer to road boundary
16. Lack of a footway for pedestrians
17. Proposed location of bin store affecting access to neighbouring property
18. Lack of street lighting
19. Potential for loss of existing boundary trees
20. Difficulties during construction phase

It should be noted that most of the objection letters above were submitted before the changes brought about following comments and amendments suggested by the Torbay Design Review Panel. Some of these comments have therefore already been addressed. The revised plans, which show a reduction in the number of units and less bulk of building, have been re-advertised with the consultation period running until Friday 27th May.

Key Issues/Material Considerations

The material considerations are considered under the following key headings:

Principle

The current building on the site is a good example of a Victorian villa, in a part of Paignton originally developed at low density with similar properties. Although the building is showing some signs of decay and neglect, the basic design ethos remains relatively unspoilt. However, the area has suffered in more recent times from modern infill that has diluted the original character and grain of the area. There is therefore now a fairly eclectic mix of types, sizes and styles of residential dwellings in the area. The property is not a Listed Building and is not situated within a Conservation Area. It would therefore be difficult to justify retention of the building, despite its character. Therefore, the crucial issue becomes the quality of the replacement structure (design).

Design

As originally submitted the building was seen by officers as being too big, with poor detailing on some elevations. However, as the principle was considered to be acceptable, the proposal was referred to the Torbay Design Review Panel (DRP) for their input and views. A summary of their discussion and

opinions is reproduced at page S???. It will be noted that the DRP was basically pleased with the approach to the architectural expression of the new building, but suggested the quality of the development would be improved with the following changes:-

- Reducing the number of units,
- Reducing the encroachment into the rear garden,
- Improving the relationship between the external surface parking spaces and the building,
- Further work on the environmental performance of the building.

The applicant has addressed these issues and revised the plans accordingly. It is officer's opinion that the new design successfully overcomes the issues raised by the DRP and on this basis there is no apparent justifiable reason for raising further concerns on design issues. The letters of objection do raise concerns in respect of design, but these were substantially submitted before the proposal was revised.

In general terms the new building is considered to be a contemporary reflection of the original Victorian design, successfully blending the remaining Victorian dwellings in the vicinity with the more modern approach taken with the surrounding infill development. The building is shown with a slightly higher roof ridge, but this is only approximately 0.3 metres higher and so would not have any noticeable undue impact on the visual amenities of the environment.

Density

There are currently 5 units on the site and the proposal is for 4 more, giving 9 in total. This is a reduction of 1 from that originally submitted. With a total site area of approximately 0.1 hectare, 9 units is at the upper end of acceptability. However, Government policy is trying to get Local Planning Authorities to consider regeneration positively and to ensure better use of 'brownfield' sites, particularly where situated within the framework of the existing built environment. Visually from the principal public viewing positions along Central Avenue, the bulk of building would not appear to be much different from that which exists on the site, furthermore the block will retain a relatively generous plot, as such it is considered that it would be difficult to argue that the site would be overdeveloped. Therefore, so long as the other issues of acknowledged importance covered below are all acceptable, then it is not considered that the proposal could justifiably be considered to overdevelop the site.

Inter-visibility, overlooking and residential impact

The proposed block would have 4 principle elevations. At the front, facing Central Avenue (southern elevation) the current building has 4 sets of windows. The proposed elevation would have 6. Whilst this is more, the extra windows are at the top level, and so would look over the bungalow opposite. In any event, the distance to the properties opposite is a normal 'across-the-road' relationship and would not cause any undue intrusion through loss of privacy.

At the rear, (garden or northern elevation), the footprint of the building is shown as extending between 3.7 and 4.2 metres further out into the garden area across its full width at Lower Ground Floor Level. The two storeys above only extend out this distance in the middle part of the building. At second floor (top) level, the accommodation is set within the slope of the roof and so is further back. The buildings on either side (numbers 5 and 11 Central Avenue) would be a distance of 10.5 and 11 metres away at their nearest points. The equivalent current distance to both number 5 and number 11 is 15 metres (at its closest point). Although the distance is therefore less than currently exists, the two neighbouring properties are at an angle, thus reducing the potential for overlooking.

Currently there are trees and heavy vegetation on the eastern boundary obscuring any inter-visibility. It is recommended that this remains or is replaced in order to maintain privacy in this direction. The two semi detached properties at the rear are separated from view by a garage block and again the facing elevation is at an acute angle. Changes made to the size of the block have also reduced the extent to which the building moves closer to those properties.

On the eastern side elevation, the boundary vegetation previously referred to would provide sufficient

screening to prevent undue overlooking. The new windows proposed are mainly to kitchens and bedrooms. There would be 2 living room windows, but these are small and ancillary.

The proposed western elevation would be very little different from that currently existing. The adjacent property at no. 7 does have a glass conservatory on its side and this would need protection from additional inter-visibility. However, the proposed situation would be very little different from that which currently exists. The nearest windows currently are to kitchens and as proposed they would be kitchens and bedrooms some with obscure glazing, and the footprint of the proposed building is no nearer to the neighbouring property at this point than currently is the case. The biggest difference is that currently the upper level flat has entry via an external staircase with level platform at the point of its front door. All entries to the proposed flats would be internal, and so this would eliminate and improve this current element of overlooking.

The proposal gives rise to some improvements in respect of overlooking and privacy whilst some elements are not as good as currently exists. There is thus a judgement to be made about the overall impact in this regard. On balance it is considered that the Architect has attempted to address privacy issues by ensuring main rooms and main windows are at the front and rear of the proposed building, the use of rooflights at the upper levels, some obscure glazing and the maintenance of existing boundary screening. The proposal could have further obscure glazing if required to, for example, kitchens. Any approval will need to include a landscaping scheme that should primarily bolster existing boundary treatment so that privacy from overlooking is increased. This can be achieved. On balance therefore it is felt that with the imposition of suitable conditions relating to obscure glazing and landscaping, this element of the proposal is acceptable.

The proposal is considered to be acceptable within the street scene because the front elevation would be of similar size and dimension to the existing. The bin store has been shown to minimise impact upon neighbours (relocated following concerns) and is finished with locked gates to minimise impact. The Council's Waste Collection Services do empty the bins down this private lane.

Highways, access and parking

The Highway Authority is not raising an objection and therefore it would be difficult to justify any such reason for refusal. Primarily access is off a private road and this is not an issue for the Highway Authority. Central Avenue is an adopted Council maintained road as far as the nos. 5 and 8 after which it is private. Rights of access and details of maintenance would therefore be a private matter for those sharing its use to resolve.

The owner of no. 9 clearly does have rights of use and access at the moment. In respect of the parking proposed, this is provided at a ratio of 1 space per unit. This is the same as the current ratio and so there would be no extra detriment in this regard. Policy T25 of the Saved Adopted Torbay Local Plan does state that for residential flats the ratio should be 1.5 spaces per flat. However, it is quite clear that this is a maximum and it does allow for a lower provision where proposals are in close proximity to town centres, necessary facilities for residential living and bus routes. These factors apply here. Adequate manoeuvring space is shown to standard for the internal and external parking spaces. The proposal is therefore considered to meet the requirements of Adopted policy in these regards and it would not be appropriate or justifiable to refuse the proposal on highways or parking grounds.

Trees and landscaping

The large old beech tree in the front curtilage which is the subject of a T.P.O. has had to be removed because its internal core was rotten. The Council's arboricultural officer has supervised its removal. This tree would not have affected the proposal anyway. However, under the terms of the T.P.O. it will need to be replaced. The Council's arboricultural officer is currently considering an appropriate place for its replacement, and this will be reported to Committee.

The boundaries to the site are currently well catered for with trees and shrubs and these should

remain where appropriate as a starting point for screening. Extra specimens may be required. This needs to be the subject of a landscaping scheme. Officers are confident that the required result can be achieved and so this could be handled by way of a condition to any approval.

Planning obligation under s106 of the Town and Country Planning Act

This is required to off-set the true cost of the development and ensure that this is realised by the development itself without becoming a burden upon the Local Authority or its Council Tax payers. The contributions due for the current proposal work out as follows:

Category 2 (55 – 74 Sq. M.)		
Municipal waste and recycling	£ 50	
Sustainable transportation	£1720	
Stronger communities	£ 130	
Education (primary only)	£ 410	
Lifelong learning	£ 220	
Green space and recreation	£1120	
TOTAL	£ 3650	9 units proposed = £32,850

This gives a total contribution due of £32,850.

Sustainability - The proposal makes better use of the land and could therefore be argued to be more sustainable than the existing use on the site. This is a brownfield site within the existing built urban environment and is therefore more sustainable than a green field site. The proposal maximises use of the site.

Crime and Disorder - Not expected to be an issue, but either the developer or any future occupier will have to ensure proper security for each flat and the site in general. .

Disability Issues - The site is on the level and there is not considered to be an overriding objection under Part M of the Building Regulations. The upper floors as flats will not be covered by the Bldg. Regs.

Conclusions

The proposal meets all of the tests of policy, both national and as adopted in the saved Local Plan. The principle of redevelopment is acceptable as it amounts to a good use of a brownfield site which currently contains an old building in need of some repair. The building is not considered worthy of listing and the site is not within a designated conservation area. The design is a modern take on an historic building and is appropriate given the mixture of styles, ages and designs in the immediate vicinity. There are some improvements and some negative impacts in respect of the potential for overlooking, but on balance, the impact is considered acceptable without undue harm to any neighbouring property. Access, parking and manoeuvrability are all considered acceptable, the Highways Authority have not objected, and issues about the use of the road are private matters as Central Avenue is not adopted at this point.

There is a T.P.O. covering the site, and the Council's arboricultural officer has negotiated an acceptable solution in this regard. Further landscaping will be required particularly to bolster the boundary screening, but this will be capable of resolution by condition. For all of these reasons, the proposal is considered acceptable subject to conditions and the agreement and signing of a Planning Obligation in respect of financial contributions.

Recommendations

Committee Site Visit; subject to the signing of a s106 legal agreement in terms acceptable to the Executive Head of Spatial Planning within 3 months of the date of this meeting; conditional approval.

Condition(s):

01. Before the development hereby approved is commenced full details of the design, appearance, materials and screening of the bin store shall have been submitted to and approved by the Local Planning Authority. It is expected that these details will show the bin store in the position indicated on the plan received 8th March 2011, lockable gates (details of which also need to be approved) on the Central Avenue elevation, and the means of access from within the site.

Reason: To allow the Local Planning Authority to assess this element of the proposal and ensure the design and impact upon neighbours and the area in general is acceptable in accordance with policies W7, BES and BE1 of the Saved Adopted Torbay Local Plan.

02. 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 existing boundary wall fronting Central Avenue shall be kept as part of the boundary treatment and repaired and re-built as appropriate with stone reclaimed from the existing wall as far as possible, in accordance with a scheme to include the method of pointing, that shall be agreed in writing with the Local Planning Authority first.

The residential units shall not be occupied until the boundary details have been provided in accordance with the approved details.

Reason: To enable the Local Planning Authority to assess this element of the proposal, in the interests of the visual amenities of the area, to ensure that the scheme is completed such that there will not be any adverse affect on any neighbouring property, and to preserve the historic nature of the existing boundary treatment, all in accordance with policies BES and BE1 of the Saved Adopted Torbay Local plan.

03. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, details of any to be retained, together with measures for their protection in the course of development and full details of the replacement for the beech tree the subject of a TPO for which removal was recently authorised.

Reason: In the interest of the amenities of the area and to ensure compliance with policies H9, L9, BES, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

04. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development) whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area, and to accord with policies H9, L9, BES, BE1 and BE2 of the Saved Adopted Torbay Local Plan.

05. Any work carried out to trees to be retained on site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.

(i) The development hereby approved shall not commence, and no materials shall be brought onto site, until all the trees to be retained on site are protected by fencing as per BS 5837: 1991. This will either be chestnut pale fencing or a scaffold structure 2.4 metres high supported durable man-made sheeting (either plywood or OSB of an exterior grade). Chestnut pale fencing will be to BS 1722: Part 4: 1989, as a minimum standard. This will consist of 1.200 mm pales, wired together as per standard, supported on three line wires, secured to fencing posts to a minimum standard of: 1800

mm long, 7 mm (3") top, driven 500 mm into the ground. In addition, straining posts, 1800 mm long by 100 mm (4") top, strutted where a change of direction occurs, will be installed at all ends and corners, at changes of direction, or acute changes of level, and at intervals no exceeding 50 m in straight lengths of fence. The fence will be installed upright, with all posts firmly bedded in the ground and line wires tensioned, and shall be maintained in such a condition throughout the duration of the development.

(ii) The fence shall be installed no closer to the trunk of the retained tree than the edge of the drip line of the canopy or a distance equivalent to half the height of the tree, whichever is the greater.

(iii) The area beneath the tree and between the trunk of the tree and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees shall be allowed onto the fenced area.

(iv) No trenches for service runs, or any other excavations shall take place within the fenced area.

(v) No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree roots.

Reason: To ensure that all existing trees on the site are adequately protected while development is in progress, and to accord with policies H10, L10, BE1 and BE3 of the Saved Adopted Torbay Local Plan.

06. 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 H9, H10, BES and BE1 of the Saved Adopted Torbay Local Plan.

07. The development hereby approved shall not commence until sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;
- (ii) rain water goods;
- (iii) reveals to window/door openings;
- (iv) slating/tiling;
- (v) glazing bars.

The building shall not be occupied until it has been completed in accordance with these details.

Reason

To ensure that the architectural detailing of the development is completed to a satisfactory standard in accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

08. All bathroom windows and any other windows indicated on the plans hereby approved as being obscure glazed shall be finished with a level of obscurity equivalent to Pilkington level 5, and shall be retained as such at all times.

Reason: In the interests of privacy and to ensure accordance with policies BES and BE1 of the Saved Adopted Torbay Local Plan.

09. The development hereby approved shall not be used or occupied until all of the car parking areas 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 Saved Adopted Torbay Local Plan, in the interests of highway safety, and in order to protect the residential amenities of the neighbourhood.

10. 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 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).