

# TORBAY COUNCIL

Application Site Address	3 Keysfield Road, Paignton, TQ4 6EP
Proposal	Reserved Matters to application P/2021/0808 (Demolition and formation of 14 apartments).  Reserved Matters to be discharged: (i) landscaping (to include biodiversity enhancement measures).
Application Number	P/2023/0446.
Applicant	Keysfield Limited.
Agent	AD Architecture.
Date Application Valid	23.05.2023.
Decision Due date	22.08.2023.
Extension of Time Date	N/A.
Recommendation	Approval. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major development
Planning Case Officer	Scott Jones.

## Location Plan



## **Site Details**

The site sits on the northern side of Keysfield Road in the largely residential area of Roundham in Paignton. The plot is spacious and tree-lined and holds a large detached Victorian Villa dating from 1870-1915. The Villa and the plot are in poor repair, the building appears inhabitable and shows external evidence of fire damage and the plot in general is unkempt.

The Villa sits towards the western side of the plot with a substantial garden setting to the north and east of the building. In terms of access there are two vehicular access points that punctuate the front boundary wall onto Keysfield Road along the southern boundary.

In regard to designations the plot sits within the Roundham and Paignton Harbour Conservation Area and is highlighted as a '*Key Building of architectural importance or which make a significant contribution to the townscape*' within the Conservation Area Character Appraisal. There is also an Area Tree Preservation Order (Ref 1974:14) that covers the site. In terms of further designations the site is within a Critical Drainage Area that covers most of Torbay.

## **Description of Development**

This is a Reserved Matters application relating to matters of landscaping in relation to the previously approved 14 residential flats as part of outline planning application P/2021/0808.

The proposed landscaping works include:

- Retained mature trees on boundaries southern and eastern borders of the site.
- Retention/creation of lawn to the north and east of the proposed units.
- Formation of parking spaces as approved with hedging and planting bordering.
- New tree and shrub planting along the northern (rear) border.

The proposed biodiversity enhancement measures submitted with the reserved matters include:

- The retention of existing landscape value trees within the property and the planting of a range of new deciduous and evergreen tree and shrub specimens.
- x7 bat boxes within the new building.
- x6 swift bricks within the new building.

## **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 "TLP")

- The Paignton Neighbourhood Plan (the "PNP")

### Material Considerations

- Roundham and Paignton Harbour Conservation Area Appraisal
- 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

P/2021/0808: Demolition of existing building and formation of 14 apartments. (Approval sought for Access, Appearance, Layout and Scale. Landscaping Reserved)(as revised by plans received 17.11.2022 and 19.12.2022, including revised description). Approved 23.01.2023.

### Summary of Representations

None.

### Summary of Consultation Responses

#### **Torbay Council Arboricultural Officer**

Having reviewed the proposed soft landscaping scheme (trees and hedges) the species selection is appropriate for the proposed layout. Additional information regarding the previous requests below has been submitted and is acceptable.

Require additional information on the nursery stock size for the tree planting. Suggest the scheme designers use 8 – 10cm girth nursery stock, which is typical for the local area.

A method statement / specification for tree and hedge establishment (5 years) will also be required.

#### **Devon County Council Ecologist**

Support the landscape scheme and the biodiversity enhancement measures put forward. Content that the scheme would provide a positive outcome for biodiversity when compared with the current site conditions.

### Key Issues/Material Considerations

### Planning Officer Assessment

Outline planning permission has been granted for the demolition of existing building and construction of 14 residential flats. Matters of Access, Appearance, Layout and Scale were approved in detail through the outline stage with only matters of Landscaping reserved for future consideration, which are sought within this application. Therefore the only matter to be considered within this application relates to landscaping.

A planning condition on the outline consent required the reserved matters to include biodiversity enhancement measures and hence biodiversity enhancement is also considered below.

## **1. Landscaping and Trees**

In terms of the Development Plan policy expectations Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development should strengthen local identity (including by retaining natural features) and include new tree planting.

The NPPF presents similar guidance within Para 130, which includes that development should ensure they are visually attractive, and that includes appropriate and effective landscaping, and Para 131, which states that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. It furthers that planning decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

The landscape proposals retain the significant trees that line the front southern border with Keysfield Road and that line that eastern side boundary, which is in accordance with the outline plans previously submitted. This is a central positive strategy when considering the character and ecological benefits of the mature trees within the urban environment and within the Roundham Conservation Area.

In addition to retaining the mature trees along the front and side border the landscaping proposals proposes trees and shrubs to intermittently line the northern rear border and western side border. In addition, within the space around the proposed building, the space will be largely laid to lawn with areas of herb planting. The transition from soft landscaping towards the rear and sides to the predominantly hard landscaping of the parking towards the front of the building is to be defined by native species hedge planting. The combination of retained trees and the proposed planting is considered to provide an attractive landscape setting for the development and will also present useable outdoor amenity space for future occupiers.

The Council's Tree Officer has been consulted on the application and considers the landscaping scheme satisfactory following the receipt of additional information on the size for the tree planting and detail on the methods for tree and hedge establishment.

The proposed development, for the reasons stated above, is considered acceptable with regards to Policies C4, SS11 and DE1 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

The above conclusion has taken account the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning

authority pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

## **2. Ecology and Biodiversity**

Policy NC1 of the Torbay Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy PNP1(c) of the Paignton Neighbourhood Plan includes guidance to support development safeguards biodiversity and protects features of biodiversity value. The policy also furthers that hedgerow habitat should be provided on at least one border wherever possible and for bat boxes and bird boxes to be included in development.

The NPPF guides that planning decisions should contribute to and enhance the natural and local environment, including by minimising impacts on and providing net gains for biodiversity.

As detailed within the report the outline consent (P/2021/0808) included a condition that required the reserved matters to include details of measures to enhance biodiversity. A Biodiversity Statement is submitted that includes the provision of the retention of existing landscape value trees within the property and the planting of a range of new deciduous and evergreen tree and shrub specimens, the provision of 7 bat boxes within the new building, and the provision of 6 swift bricks within the new building. Locations of the nesting/roosting facilities have been provided on elevation plans.

Devon County Council Ecology Officer has been consulted on the application and considers the biodiversity proposals satisfactory.

The biodiversity enhancement measures are deemed to be in accordance with Policy NC1 of the Torbay Local Plan, PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

### **Local Finance Considerations**

#### **S106:**

Not applicable to these reserved matters.

#### **CIL:**

Not applicable to reserved matters for landscaping. The development is CIL liable though.

### **EIA/HRA**

#### **EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

#### **HRA:**

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing.

### **Statement on Human Rights and Equalities Issues**

**Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

**Equalities Act -** In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **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.

### **Conclusions and Reasons for Decision**

Overall, the number and range of retained and proposed trees, plants and shrubs would present adequate softening of the built form that would offer a positive and attractive residential environment for future occupiers.

The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

It should be noted that the NPPF (Para 38) guides that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant permission for these reserved matters.

## **Officer Recommendation**

Approval:

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

## **Conditions:**

## **Informative(s)**

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.

## **Development Plan Relevant Policies**

Relevant Policies

DE1 – Design

SS10 – Conservation and the historic environment

SS11 – Sustainable communities

C4 – Trees hedgerows and natural landscape features

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

PNP1(c) – Design Principles