

**Application Number**

P/2013/0698

**Site Address**

Snooty Fox  
89 - 91 Fore Street  
St Marychurch  
Torquay  
Devon  
TQ1 4PZ

**Case Officer**

Matt Diamond

**Ward**

St Marychurch

**Description**

Erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats and associated parking, following demolition of existing buildings

**Executive Summary/Key Outcomes**

The proposal is to build a four storey block of flats comprising 14 no.1-bed flats and 13 no. 2-bed flats (27 in total) on undeveloped land behind the Snooty Fox public house, Fore Street, St Marychurch.

Planning permission was obtained in 2005 to redevelop the wider area behind the Snooty Fox, but this part of the site has remained unimplemented. The applicants have cited economic factors for this and consider flats to be more economically viable. Whilst the application seeks 8 more units on this part of the site than the 2005 permission, the number of bed spaces would remain the same at 40 bedrooms due to the smaller size of the units.

The design of the proposed development is considered to be acceptable. It would be orientated to face the informal parking area behind the Snooty Fox, which would enhance the safety and security of the area through natural surveillance. The site is large enough to accommodate a building of this scale; its footprint would be slightly smaller than the substantial extension buildings that previously occupied the site and it would be lower in height than the Snooty Fox. Its third (top) storey would be set back from the front and rear elevations to be less visible at ground level, whilst it would step down in height to three storeys to the east to fit in with the adjacent property. It would have a flat roof and contemporary architecture. It would be primarily rendered white, which fits in with the character of the area.

The impact of the proposed development on the amenities of neighbouring properties has been assessed, with particular attention given to Nos. 4C, 4 and 6 Rowley Road to the south of the site which are at a lower level. A substantial

brick wall provides screening between the site and these properties, which would be retained in the proposals. The design has been revised to accommodate privacy screens on the rear balconies to avoid overlooking of these properties. It is considered that the proposed development would not have an adverse impact on the outlook, privacy, daylight and sunlight of these or other properties, where the application would warrant refusal.

The proposed development would be a low car development, with parking available for the majority of the 2-bed flats. However, there is potential to provide parking for all the 2-bed flats and visitors parking by utilising the space available to the north of the site. Whilst no parking would be available for the 1-bed flats, this is acceptable in this location due to the close proximity of the District Centre and opportunities to use public transport. A Travel Plan would need to be conditioned to encourage the use of sustainable modes of travel. Cycle parking would be provided.

An independent viability assessment has been carried out concluding that it would be unviable to provide any affordable housing in the scheme. However, it is viable to provide £42,745.50 towards site acceptability and sustainable development contributions.

In this case it has been agreed with officers to use these contributions towards enabling the redevelopment of Pavor Farmhouse to the north of the site, which is within the applicant's ownership. This site is a derelict listed building that recently gained planning permission to convert it into two dwellings. However, it requires external funding in order to be developed.

### **Recommendation**

Conditional approval delegated to the Executive Head of Spatial Planning (to resolve conditions); subject to signing section 106 agreement securing £42,745.50 towards the redevelopment of Pavor Farmhouse as enabling funding within 13 weeks of the valid application being submitted, or the application be refused.

### **Statutory Determination Period**

The application is a major application because the development comprises more than 10 dwellings. The application was validated on 22.07.2013. The 13 week determination date is 22.10.2013.

### **Site Details**

The site is a backland site to the rear of the Snooty Fox public house, Fore Street, St Marychurch. The area of the site is 0.14ha. It formerly comprised a number of large rear extensions to the Snooty Fox that were used as function rooms in the past, but had been disused and semi-derelict for a number of years. These buildings have been demolished recently leaving rough open ground and exposing the remaining rear extensions to the Snooty Fox. To the north, the site

includes an informal parking area used by occupiers of the surrounding residential properties, including Colsons Cottages which front onto the site to the north. Vehicular access is provided via an unsurfaced track linking to Petitor Road to the northeast. The site has an untidy appearance, which is hindered further by the unattractive appearance of the rear of the Snooty Fox.

The site is bounded by: Colsons Cottages and the rear gardens of properties fronting Petitor Road to the north; the access track and side elevation of a recently developed residential property to the east; the rear gardens of Nos. 4C, 4 and 6 Rowley Road (semi-detached houses) and blank rear elevation of Rowley Court (residential courtyard development) to the south; and the rear of the Snooty Fox and other three storey buildings fronting Fore Street to the west. Two other residential properties are accessible from the informal parking area to the west of the site: 1 and 2 Petitor Apartments.

A high stone wall topped with ivy runs along the southern boundary of the site adjacent to Nos. 4C, 4 and 6 Rowley Road. These properties are approximately 2 metres lower than the site, with part raised rear gardens. The wall is approximately 4 metres high measured from the site and just over 6 metres high measured from the ground level of Nos. 4C, 4 and 6 Rowley Road. The top of the wall is generally level with the eaves of these properties.

The site is located within St Marychurch District Centre and the St Marychurch Conservation Area, as defined in the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'). The site is also located within a Traffic Management Zone (TMZ).

### **Detailed Proposals**

The proposals are to erect a four storey block of flats comprising 14 no. 1-bed flats and 13 no. 2-bed flats (27 in total). The building would be sited in the same location as the former extensions, but would cover a slightly smaller area, set slightly further back from the parking area and between 3 and 5 metres away from the southern boundary wall. The building would step down to three storeys to the east behind 6 Rowley Road to fit in with the height of the adjacent residential property. The third floor would be set back from the front and rear elevations, so that it is less apparent/visible at ground level. There would be 8 flats on each of the ground, first and second floors (4 to the front and 4 to the rear) and 3 flats on the third (top) floor.

The rear ground floor flats would have small gardens adjacent to the boundary wall, whilst the flats above would have balconies with 1.8 metre high privacy screens (first and second floors) to prevent overlooking of Nos. 4C, 4 and 6 Rowley Road. The third floor flats would also have rear balconies with a 1.2 metre high parapet wall and low level privacy screen atop to prevent any overlooking.

The parking area to the north of the site would be retained and 11 new car

parking spaces created in front of the building. The vehicular access from Petitor Road would also be retained and a gated pedestrian footway provided to the side of the building leading to Fore Street. The main entrance to the building would face the parking area, whilst a secondary entrance would open onto the side footway. A bin store would be provided in front of the building to the east and cycle stores provided to the west for 27 bicycles.

The building would have a contemporary appearance, primarily white render walls with some timber panelling and a standing seam zinc flat roof. The height of the building would be 10.8m (12m including the lift shaft), stepping down to 8.6m to the east.

An independent viability assessment has been carried out showing that it is not economically viable to provide affordable housing as part of the scheme, partly due to the location of the development and quality of the surroundings; this also took into account that the existing access from Petitor Road would be resurfaced.

It has also been agreed with officers that should the application be approved the available contributions generated by the scheme will be used towards enabling the redevelopment of Pavor Farmhouse, a derelict listed building on Fore Street about 600 metres north of the site within the same ownership. Planning permission was granted recently to redevelop the listed building as two dwellings (refs. P/2013/0688 & 689), but an independent viability assessment showed that this scheme was not economically viable without additional external funding.

### **Summary Of Consultation Responses**

*Housing Services:* It would have been preferable if the site was retained for the completion of the development granted planning permission in 2004, as it would have delivered 12 affordable housing units. As the available contribution of approximately £42,000 has not been made available for affordable housing, the proposal would not assist in meeting Torbay's affordable housing need, which as of 23rd September stands at 3,115 households on the waiting list for rented accommodation and 323 for shared ownership.

*Highways/Strategic Transportation:* Highways have no technical issues with the scheme. Strategic Transportation has requested further details on the access to the highway (including materials), parking layout and cycle storage. 27 cycle spaces are required, not 14 (as originally proposed). The proposed level of car parking could work in this location; however, the development must be promoted as a 'low or no' car development with first class provision of facilities for alternative travel and assistance to use them. Hence, a Travel Plan would be beneficial and they must demonstrate that surrounding streets will not be used by residents.

A sustainable transport contribution of £40,004.00 is required towards the

provision and enhancement of cycle links in the vicinity of the site.

*Engineering:* Drainage: The applicant has indicated that surface water from the development will drain to the main sewer system, however there is no indication a sustainable drainage option has been investigated. Soakaways should be investigated by carrying out trial holes and infiltration tests. If the ground is suitable the soakaway should be designed in accordance with Building Research Establishment Digest 365 and cater for the critical 1 in 100 year storm event plus an allowance for climate change. If the ground is unsuitable the developer should investigate the possibility of draining to the sewer system, which would have to be approved by South West Water. Details of infiltration tests must be submitted before planning permission can be granted.

*SW Water:* No objection.

*Building Control:* No response.

*RSPB:* There may be opportunities to enhance the biodiversity of the site by integrating nest boxes suitable for swifts into suitable locations on the side elevations. These boxes should utilise the maximum height of the building with clear airspace below. They may also be used by crevice roosting bats.

### **Summary Of Representations**

45 people have objected to the proposals and 10 people support. 34 objections are signed proforma letters, whilst the remaining 11 have submitted individual representations (plus the signed proforma letter in some cases). All the support letters are signed proforma letters.

The following issues were raised in objections:

- Overcrowding
- Not enough parking
- Impact on privacy
- Access must be maintained to existing properties
- Concerns with safety of vehicular access onto Petitor Road from more traffic
- Impact on the conservation area
- Site already benefits from a previous planning consent to tidy the area
- Party walls, access routes and services need to be clearly defined and legally approved, as it may affect neighbouring properties
- Access for emergency vehicles
- Not against principle of redevelopment, but proposals are considered to be an overdevelopment
- Height and scale of the proposals is out of context and would be overbearing
- Loss of light

- Concern the site is properly drained
- Design not in keeping with surroundings
- Lack of amenity space and soft landscape
- Impact of construction vehicles on local roads
- Noise
- Light pollution - impact on neighbours
- Lack of energy efficiency measures
- Impact on infrastructure
- Lack of affordable housing
- Impact on archaeology
- Impact on boundary wall

The following issues were raised in support:

- Will clean up the building and surrounding areas
- Will improve the safety of the area

These representations have been submitted in PDF format for the Members consideration.

### **Relevant Planning History**

- P/2000/1187: Revised Plans Depicting 12 Houses Instead Of 14 And Comprising Totally Revised Layout (In Outline) (As Revised By Plans Received 29/11/00 And 12/4/01): Approved 16.11.2001
- P/2001/0369: Residential Development To Provide 12 Houses With Integral Car Parking Facilities And Access Road (In Outline): Refused 04.05.2001
- P/2001/0938: Residential Development To Provide 12 Houses With Integral Car Parking Facilities And Access Road (In Outline) (As Revised By Letter Dated 17 September 2001 And Drawing Nos. 750.02 R1 And 750.03 R1 Received On 18 September 2001): Approved 28.06.2002
- P/2001/1391: Residential Development To Provide 12 Houses With Garages, Car Parking And Vehicular And Pedestrian Access: Approved 26.07.2002
- P/2004/2047/MPA: Alteration, Demolition In Part, Extension, Erection Of Dwellings To Form 41 Dwellings And 2 Shops (As revised by transport statement submitted 15/2/05 and plans received 21/2/2005): Approved 08.03.2005

P/2008/0597/PA: Alterations to previous approval (ref app no P/2004/2047/MPA) from 2 no 4 bed dwellings to 4 no 2 bed flats with alterations and extensions: Approved 02.06.2008

P/2012/0471: Formation of 2 dwellings for plots 33 and 34 with vehicle and pedestrian access - works commenced: Approved 13.08.2012

P/2012/0654: Demolition of part of rear section of building: Approved 01.10.2012

DE/2013/0025: Further details to follow (Pre-application Enquiry):

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

The key issues are:

1. Principle of Development
2. Design
3. Impact on Character and Appearance of Conservation Area
4. Impact on Amenity of Neighbouring Properties
5. Car Parking
6. Access
7. Drainage

#### **1. Principle of Development**

The principle of redeveloping the site for residential development is acceptable, as this use has already been approved on the site previously. The Snooty Fox and area behind it, including the application site, was granted planning permission in 2005 for a development to form 41 dwellings and 2 shops. This development has been implemented in part and consisted of: converting the public house into 2 shops and 13 flats; converting the rear extensions (now demolished) into 19 terraced units (17 no. 2-beds and 2 no. 3 beds); converting Colsons garage into 4 no. 2-bed dwellings; and creating 5 dwellings to the east (2 no. 3-beds and 3 no. 4 beds). Colsons garage has been converted into 4 dwellings and the 5 dwellings to the east have been built. The remaining parts of the 2005 permission have not been implemented and it is understood that the owners of the Snooty Fox now wish to retain it as a public house.

The owners of the Snooty Fox and the land behind have sold the central part of the site, subject to this application, to the applicants. During pre-application discussions the applicants stated it was unviable to implement the 2005 permission on this part of the site, which is borne out by the fact that it has remained unimplemented. This is due in part to the economic downturn since 2008. However, the applicants were interested in developing a block of flats on the site, consisting of a greater number of units than the approved scheme, but with a similar number of bed spaces overall. The applicants consider that 1 and

2-bed flats are more economically viable in this location, which has led to the current application being submitted.

There has been a longstanding desire by the Council's Housing Standards Team in Community Safety to tidy up the site (to demolish the rear extensions in particular), due to concerns over the area as an eyesore and health risk to nearby residents. The former extensions were not secure and seen as a fire risk. There had been instances of unauthorised access to the buildings and a bonfire was started in July 2012, which got out of control leading to the fire service being called out. Conservation area consent was obtained to demolish the extensions in 2012 and this has now been carried out.

## **2. Design**

The design of the block of flats is considered to be acceptable. The scale of the proposed development in terms of its height and massing is larger than the terraced and semi-detached housing that characterises the area in general, but is considered acceptable given the scale of the former extensions that occupied the site previously and the height of the Snooty Fox and other buildings which front Fore Street to the west. The site forms part of a substantial backland area that is large enough to accommodate a building of this scale.

The building footprint would be smaller than the area covered by the previous extensions, and the height of the building - whilst higher than the previous extensions - would be lower than the Snooty Fox to the west and step down to fit in with the height of the adjacent residential property to the east. The relationship of the building with Nos. 4C, 4 and 6 Rowley Road will be discussed under (4) below.

The density of the proposed development is higher than the 2005 permission for this part of the site, due to the increase in the number of dwellings from 19 to 27. However, in terms of people, the density of the proposed development is the same as the approved scheme, as both have 40 bedrooms.

The layout of the proposed development is appropriate. It would front onto the parking area to the north, providing natural surveillance of this area, which would enhance the safety and security of the site and its surroundings.

The proposed access arrangements are appropriate, making use of the existing vehicular access onto Petitor Road and providing a pedestrian link to Fore Street to the west, allowing residents to access the District Centre shops and facilities more easily.

In terms of the architectural style of the building, the proposed contemporary design is considered acceptable taking into account the surroundings. The National Planning Policy Framework (NPPF) states that policies and decisions should not attempt to impose architectural styles or particular tastes, however it



is proper to seek to promote or reinforce local distinctiveness. It is considered that the proposed materials, primarily white render, would fit in with the character of the area and would reinforce local distinctiveness. There is no reason why a contemporary design would not be appropriate for the site, provided it improves the character and quality of the area.

There is an opportunity to improve the quality of the parking area to the north through appropriate hard and soft landscaping. A detailed landscaping plan has not been submitted with the application, therefore a condition would be required requiring these details to be submitted for approval.

Therefore, the proposals accord with Local Plan Policies BES, BE1 and BE5, and Section 7 of the NPPF.

### **3. Impact on Character and Appearance of Conservation Area**

The proposals would not have an adverse impact on the character and appearance of the Conservation Area, as the site is not visible from the surrounding public streets. However, it would have a positive impact on visual amenity by enhancing the appearance of the site and improving safety and security. The quality of the parking area could also be improved through an appropriate landscaping strategy, which should be a condition of any planning approval.

Therefore, the proposals accord with Local Plan Policy BE5, and Section 12 of the NPPF.

### **4. Impact on Amenity of Neighbouring Properties**

Whilst the distance of the proposed development from the dwellings fronting onto Petitor Road is sufficient to maintain their privacy (approx 30 metres), which is improved further by Colsons Cottages and other structures blocking views, the proposed development would be in closer proximity to the dwellings fronting Rowley Road, which are at a lower level. Therefore, the impact of the proposed development on the outlook, privacy, daylight and sunlight of these properties must be given careful consideration.

Apart from a single skylight, Rowley Court to the south has no rear windows or gardens facing towards the site. Therefore, the proposed development would have no impact on the amenity of these properties. However, Nos. 4C, 4 and 6 Rowley Road all have rear windows and gardens facing towards the site, which could be impacted upon.

The potential for harm to the amenities of these three semi-detached properties was identified at pre-application stage and the applicants were asked to design the scheme to ensure no harm to these properties. The potential for harm is mitigated significantly by the presence of the existing boundary wall, which is a high structure that is level with the eaves of these properties and topped with ivy.

This wall provides an effective and attractive screen between the site and the three properties, and the applicants were asked to ensure its retention in the overall scheme design.

In terms of outlook, which is the visual amenity afforded a dwelling by its immediate surroundings, the general rule-of-thumb is outlook from a principal window will generally become adversely affected when the height of any vertical facing structure exceeds the separation distance from the window. In these circumstances, the structure could be described as having an overbearing impact on the dwelling. Nos. 4C, 4 and 6 Rowley Road each have principal windows facing the site on the main part of the house and on two storey rear extensions.

The separation distance of the windows on the main part of the house and the proposed development is between 19 and 19.4 metres for the three properties. The separation distance of the windows on the two storey rear extensions and the proposed development is between 13.4 and 13.8 metres. The height of the proposed development measured from the ground level of Nos. 4C and 4 Rowley Road to the roof of the facing balconies is 10.2 metres. The height of the proposed development measured from the ground level of No. 6 Rowley Road to the top of the facing privacy screen is 9.4 metres. As the building gets higher it steps further away from the neighbouring properties and at no point does the height of the building exceed the separation distance. This indicates that the proposed development would not have an overbearing impact on the neighbouring properties. In addition, this does not take into account the existing boundary wall, which would partially screen the proposed development. Therefore, it is considered that the proposed development would not have an adverse impact on the outlook of Nos. 4C, 4 and 6 Rowley Road.

Notwithstanding the view that the proposed development would not have an overbearing impact, the inclusion of windows and balconies on the rear elevation of the proposed development could lead to direct and harmful overlooking of the rear windows and gardens of Nos. 4C, 4 and 6 Rowley Road, impacting on their privacy. The proposals as originally submitted included no features to prevent overlooking, which was unacceptable. Due to the boundary wall, there is most danger of overlooking from the second storey flats, as the third storey is set further back.

In response to the concerns raised by officers, the applicants submitted revised proposals incorporating 1.8 metre high obscured glazing screens to the edge of the balconies on the first and second floors to prevent overlooking, as well as obscured glazing screens to the top of the parapet wall for the third floor balconies. It is considered that the amendments are sufficient to prevent any overlooking of the neighbouring properties and that they have been designed to appear integral to the overall design of the building. Therefore, the privacy of Nos. 4C, 4 and 6 Rowley Road would be protected. A condition is recommended to control the level of obscured glazing to ensure maximum screening is

provided.

In terms of daylight and sunlight, it is considered that the proposed development would not have an adverse impact on Nos. 4C, 4 and 6 Rowley Road, as the site is located to the north of these properties. Therefore, the proposed development would not overshadow the rear elevations or gardens of these properties. Furthermore, the third storey is set back to allow more daylight into these properties.

In terms of other issues that might impact on the amenity of Nos. 4C, 4 and 6 Rowley Road, such as light pollution and noise, it is considered that these issues can be dealt with via appropriate conditions to any planning approval, e.g. preventing external lighting on the balconies and requiring soundproof glazing if necessary.

The proposals are likely to overshadow Colsons Cottages during the afternoon in winter; however, on balance this impact is not considered significant enough to outweigh the benefits of the proposal, which includes tidying up the area to the benefit of Colsons Cottages.

Therefore, based on the above, on balance the proposals accord with Local Plan Policies H9 and H10 with regard to amenity considerations and impact on neighbouring properties.

## **5. Car Parking**

The plans submitted with the application show that 11 car parking space would be provided in front of the proposed block of flats. This provides a parking ratio of 0.4 per dwelling. The 2005 scheme was approved with a parking ratio of 0.68 per dwelling, as 28 parking spaces were included for 41 dwellings. However, the application site includes part of the area adjacent to Colsons Cottages, which included 8 car parking spaces in the 2005 scheme. It is unknown which properties these spaces are intended to be allocated to, but there appears scope to utilise some of these spaces for the new block of flats. The detailed layout of the car parking spaces in this part of the site and their intended allocation should be made clear on a landscaping plan, which would be a condition of any planning approval.

Notwithstanding the above, parking below the maximum standards is acceptable in this location due to the close proximity of shops and facilities in the District Centre, and opportunities to use public transport. Therefore, the proposals accord with Local Plan Policy T25, and Section 4 of the NPPF.

Sustainable Transportation has recommended a Travel Plan in order to promote the scheme as a 'low or no' car development. This can be made a condition of any planning approval.

## 6. Access

Highways and Sustainable Transportation have raised no objections to the proposed development in terms of access or impact on local highways. The proposed vehicular access to Petitor Road is existing and already in use. Its width is 5.6 metres at its narrowest point, which is sufficient for two vehicles to pass. There is also a pavement next to it for pedestrians. Therefore, the proposals accord with Local Plan Policy T26.

Strategic Transportation has requested further details on the access to the highway (including materials). This can be addressed in a detailed landscaping plan, which would be a condition of any planning approval.

## 7. Drainage

The application indicates that surface water would be drained into the main sewer, which was the case for the 2005 scheme. However, since that application was approved the NPPF has been published, which promotes sustainability, including reducing the causes and impacts of flooding. Therefore, Engineering has recommended investigating whether soakaways would be suitable for the site. This can be dealt with via a pre-commencement condition. In the event that soakaways are not suitable, South west water has raised no objection to the proposals.

### S106/CIL -

As stated above, an independent viability assessment has been carried out that concluded that no affordable housing is viable within the scheme.

The site acceptability and sustainable development contributions have been calculated below. The Greenspace and Recreation contribution has been calculated for 8 no. 1-bed units to reflect the uplift in the number of units on the site compared to the 2005 scheme, as the amenity contribution for the 2005 scheme has already been paid.

|   |            |
|---|------------|
| Waste Management (Site Acceptability)                   | £ 1,350.00 |
| Sustainable Transport (Sustainable Development)         | £37,181.67 |
| Lifelong Learning - Libraries (Sustainable Development) | £ 1,331.67 |
| Greenspace and Recreation (Sustainable Development)     | £ 491.67   |
| South Devon Link Road                                   | £14,755.00 |

|                          |            |
|--------------------------|------------|
| 5% administration charge | £ 2,755.50 |
|--------------------------|------------|

|              |                   |
|--------------|-------------------|
| <b>TOTAL</b> | <b>£57,865.50</b> |
|--------------|-------------------|

The independent viability assessment concluded that the scheme could afford to pay the normal site acceptability and sustainable development contributions, which were calculated as £42,745.50. This figure is lower than the total calculated above because mitigation was applied for 30% affordable housing.

It has been agreed with the applicants that the £42,745.50 will be offset to part fund the redevelopment of Pavor Farmhouse as enabling development (in accordance with planning permission ref. P/2013/0688 and listed building consent ref. P/2013/0689). Further funding is also required to meet the total deficit for Pavor Farmhouse, which will become available from another development site. Notwithstanding the higher figure calculated above for a 100% open market scheme, £42,745.50 is the figure that has been determined as viable by the independent assessor. A section 106 agreement is required accordingly and is being drafted.

### **Conclusions**

In conclusion, this application has the potential to lead to the redevelopment of two problematic sites: the area behind the Snooty Fox and Pavor Farmhouse. Whilst provision of a 4 storey block of flats on a backland site is not typical, the size of the site and scale of surrounding development means that it would not be out of character or have a detrimental impact on the Conservation Area.

Careful consideration has been given to the impact of the development on the amenities of neighbouring properties, in particular Nos. 4C, 4 and 6 Rowley Road behind the site which are at a lower level. It is considered that the proposed development would not have an adverse impact on the amenities of these properties having considered the effect on their outlook, privacy, daylight and sunlight. This is due in part to the existence of a substantial boundary wall between the properties, which is level with the eaves of the existing dwellings and topped with ivy. This wall is an attractive feature in its own right and provides effective screening between the development site and the three properties.

### **Relevant Policies**

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