

Application Site Address	3 Keysfield Road, Paignton, TQ4 6EP
Proposal	Reserved Matters to application P/2024/0831 (Variation of P/2021/0808 (Demolition of existing building and formation of 14 apartments (Outline). Reserved Matters to be discharged: (i) landscaping (to include biodiversity enhancement measures).
Application Number	P/2025/0688.
Applicant	Keysfield Limited.
Agent	AD Architecture.
Date Application Valid	13.01.2026.
Decision Due date	14.04.2026.
Extension of Time Date	TBC.
Recommendation	Approval. Subject to a legal agreement to secure recreational pressures mitigation on the Berry Head SAC (£1,890). The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Director of Place Strategy, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major Reserved Matters application.
Planning Case Officer	Scott Jones.

Location Plan



Site Details

The site sits on the northern side of Keysfield Road and presently holds an apartment building that is under construction, which was approved under Outline planning application P/2021/0808 and Reserved Matters for landscaping application P/2023/0446.

The building under construction sits towards the western side of the plot with parking to the front and the main garden setting to the east of the building, which somewhat replicates the historic plot arrangement. In terms of access there is to be one central vehicular and pedestrian access with the previous pedestrian access that was set towards the west on the southern border to be closed.

In regard to designations the plot sits within the Roundham and Paignton Harbour Conservation Area. There is also an Area Tree Preservation Order (Ref 1974:14) that covers the site, and 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 linked to the previously approved scheme for 14 residential flats as part of outline planning application P/2021/0808 and as revised by S73 application P/2024/0831.

The proposed landscaping works align with those approved under the Reserved Matters application P/2023/0446 submitted pursuant to the initial outline consent that has been amended through a S73 variation. It is this variation of the Outline that has triggered the requirement for this Reserved Matters application. The proposals 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 also align with those approved under the previous Reserved Matters application P/2023/0446 and 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.

The above enhancement measures are detailed on the submitted elevations following consideration of the ecology comments received by Devon County Council.

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.
- Planning (Listed Buildings and Conservation Areas) Act 1990: General duty as respects conservation areas in the exercise of planning functions (72) to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

Relevant Planning History

Outline Application: 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.

Reserved Matters: P/2023/0446: Major Reserved Matters relating to outline consent application P/2021/0808, (Demolition of existing building and formation of 14 apartments.) Matters relating to 01 (i) - landscaping, 02 - biodiversity enhancement measures. Approved 12.09.2023.

Section 73 amendment (to the Outline): P/2024/0831: Variation of condition to P/2021/0808 (Demolition of existing building and formation of 14 apartments (Outline). Vary Condition P1 (Plans). Variation sought: Minor layout changes across all floors and minor elevation changes, changes to size and arrangement of 3rd Floor (penthouse). Approved 14.04.2025.

Summary of Representations

None.

Summary of Consultation Responses

Torbay Council Senior Tree Officer

No objection, landscaping proposals are acceptable.

Devon County Council Ecologist

No Objection. The proposed hedge planting and tree planting will provide a suitable provision for biodiversity and provide food/shelter for a range of species. In addition 7

x Schwegler 1FE access + back panels, and 6 x swift bricks included within the Biodiversity Enhancement Scheme (2023) will provide a significant gain for biodiversity. Clarity on the location of the enhancement measures should be sought.

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 application with only matters of Landscaping reserved for future consideration. Reserved Matters for Landscaping for the original outline consent were subsequently approved. The original outline has subsequently been amended and hence this application seeks Reserved Matters approval for the landscaping for the amended outline consent, as the previously approved landscaping detail does not link to the now revised outline application.

As the only matter reserved to be considered within this application relates to landscaping, which should include consideration of biodiversity enhancement measures as sought by a planning condition. The landscaping and biodiversity enhancement proposals are 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 Paragraph 135, which includes that development should ensure it is visually attractive, and that includes appropriate and effective landscaping, and Paragraph 136, 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, and 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 and reserved matters 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 designated Roundham Conservation Area.

In addition to retaining the mature trees along the front and side borders 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 shrub and herb planting.

The transition from soft landscaping towards the rear and sides with 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 Senior Tree Officer has been consulted on the application and considers the landscaping scheme satisfactory.

As a material consideration the landscaping details mirror those submitted and approved under the reserved matters approved pursuant to the initial outline consent, prior to it being revised through a minor material amendment application. This decision was made under a similar umbrella of local policy and national guidance.

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 Conservation Areas.

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 (as revised) 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. The locations of these nesting/roosting facilities on the revised building have been detailed through amended plans to respond to the comments provided by the Devon County Council Ecologist. The locations mirror those previously approved.

As a material consideration the biodiversity enhancement measures mirror those submitted and approved under the Reserved Matters approved pursuant to the initial outline consent, prior to it being revised through a minor material amendment

application. This decision was made under a similar umbrella of local policy and national guidance.

For the reasons above the biodiversity enhancement measures are considered in accordance with Policy NC1 of the Torbay Local Plan, PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

Local Finance Considerations

S106:

Site Acceptability Matter:

Recreational pressures mitigation on the Berry Head SAC (£1,890). See HRA Section below. Based on 14 units @ £135 per unit.

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:

The site is located within the extended Berry Head Recreational Zone of influence. The Zone is now an 8km radius, extended from 5km, which now takes in the site of this application.

Berry Head is part of a European Site and Habitats Regulations places a legal requirement on competent authorities to carry out an assessment of plans or projects which might impact the features of a European Site. Recreational use of the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC has the potential to cause degradation through scrub encroachment, erosion by walkers and eutrophication through dog fouling. The impacts of recreation are increased as a result of population growth (i.e. new housing and tourist accommodation). The impacts of housing and tourism accommodation developments on the SAC (within the Zone of Influence) can be mitigated through the implementation of Policy NC1 which states:

“Developer contributions will be sought from development within the Brixham Peninsula (Policy SDB1) towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure”.

The funding outlined above is used to deliver mitigation for recreation impacts and the detail for how these contributions are calculated is set out in the Council’s Adopted Planning Contributions and Affordable Housing SPD.

The mitigation outlined above is a site deliverability matter, and it would be in breach of law (habitats regulations) to grant permission without seeking this mitigation payment. This is relevant to a Reserved Matters application, as with any application where the obligation has not previously been secured and the application type would result in authorisation for a project to succeed.

To comply with habitat regulations a s106 legal agreement (bilateral or unilateral) that secures £1,890 (14x£135) is required prior to any grant of consent. The recommendation responds to this.

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. The development has previously been approved, including a similar landscaping and biodiversity enhancement scheme.

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

The landscaping, considering 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 biodiversity enhancement measures are also considered suitable. Both matters align with proposals previously approved under the initial outline consent.

The proposals are in accordance with the provisions of the Development Plan. The

Officer recommendation is therefore one of approval, subject to the identified Berry Head SAC mitigation payment being secured.

Officer Recommendation

Approval:

Subject to a legal agreement to secure recreational pressures mitigation on the Berry Head SAC (£1,890).

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Director of Place Strategy, 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