

Application Number

P/2013/1204

Site Address72 Primley Park
Paignton
Devon
TQ3 3JX**Case Officer**

Carly Perkins

Ward

Clifton With Maidenway

Description

Proposed new dwelling adjacent

Executive Summary/Key Outcomes

The proposal is for a single detached dwelling with two driveway parking spaces and surrounding garden areas. The proposal includes pedestrian/vehicular access at first floor level and further living accommodation at lower ground level due to the topography of the site. The design and alignment of the dwelling reflects that of other nearby properties on Primley Park.

The proposal is considered acceptable in this location and without serious detriment to the living conditions of neighbouring occupiers or the character or appearance locality.

Recommendation

Site Visit; Conditional Approval, subject to the completion of the s106 agreement to secure the sustainable development contributions in line with policy. The s106 to be completed within 3 months of the date of this committee or the application is to be refused for the reason of the lack of a s106 agreement.

Statutory Determination Period

8 weeks, the determination date was the 4th January 2014. The decision has yet to be made due to the need for the section 106 agreement, which is in the process of being agreed. The application has been further delayed in order to report to committee, due to the number of objections being received.

Site Details

The application site is a sloping site, inclining towards the road, Primley Park. Properties in Kelland Close sit at a lower level than the site and properties to the west of the site on Primley Park are located at a slightly higher level. There are two trees on the site which line the boundary with properties in Kelland Close and a low brick wall lines the front boundary of the site.

Detailed Proposals

The proposal is for a single detached dwelling with two driveway parking spaces and surrounding garden areas. The proposal includes pedestrian/vehicular access at first floor level off of Primley Park and further living accommodation at lower ground level due to the topography of the site. The design and alignment of the dwelling reflect that of other nearby properties on Primley Park.

Summary Of Consultation Responses

Highways Development Engineer: The length of the parking spaces must be 6m long (5.5m minimum) to prevent vehicles overhanging the footway. The applicant must submit calculations for the construction of any retaining structure supporting or adjacent to the highway. Any works on the highway will need to be performed under licence to the highways department by a contractor that is suitably qualified to work on adopted public highway with a minimum of £5 million public liability insurance. Providing the above can be met, Highways have no objections.

Arboricultural Officer: The current tree species on site whilst of poor quality are readily visible from the wider landscape given the far reaching reciprocal views available. Their replacement therefore should offer at least a neutral impact upon public visual amenities or preferably an enhancement. The trees suggested are of reduced merit in these terms in that they are of small final size and/or of limited visual presence. The supporting letter noted that they may be topped, this would not be in accordance with B.S.3998 2010 and against industry best practice would be detrimental to the amenities of the area. Suggested species to replace these are Sweet Gum, Gingko, Turkish Hazel, fastigiated forms of Oak or Beech, 2 trees would be acceptable given the size of the site.

It is recommended that the scheme be suitable for approval on arboricultural merit however the species for mitigating planting should be varied as above. Any plan indicating the trees should mark tree pit design, planting specification and post planting maintenance including watering and replacement of losses during the condition period.

Drainage: The applicant has indicate that surface water from the development will be drained via soakaways however no details have been included within the plans submitted in support of the planning application.

Before permission is approved the applicant should submit detailed designs for these soakaways in accordance with the details identified below. The development must carry out trial holes and infiltration tests at the locations of the proposed soakaways. These infiltration tests are required in order to confirm that the ground conditions are suitable for soakaways and in addition the infiltration rate will be used to design the required soakaways. The design of these soakaways should be carried out in accordance with Building Research Establishment Digest 365. The design should be submitted showing that the

proposed soakaways have been designed to cater for the critical 1 in 100 year storm event plus an allowance for climate change.

Summary Of Representations

4 objections have been received and one petition from five properties. Issues raised:

- Impact on light
- Impact on privacy
- Concerns regarding surface water and foul drainage
- Concerns regarding use of heavy machinery on sloping land and impact on shared boundary wall between properties in Kelland Close and application site
- Impact of future sales of properties in Kelland Close

These representations have been copied and sent electronically for Members consideration.

Relevant Planning History

P P/1991/1477 Erection of one bungalow with dormer(in outline) (as revised by plans dated 16th December 1991) REFUSED

P/1992/0583 Erection of one bungalow (in outline) REFUSED

P/2003/0076 Erection of dwelling with vehicular access REFUSED

P/2013/1072 Proposed dwelling WITHDRAWN

Key Issues/Material Considerations

The relevant considerations are; planning history, the impact of the development on the character and appearance of the locality, the impact of the proposals on neighbouring residential amenity, the standard of the internal environment for potential occupiers, and parking provision.

Planning History:

There is a planning history of refusals for dwellings on this site, however, each application must be considered on its individual merits. The past decisions were made on the basis of different plans and proposals from that under consideration now.

In 1991 a proposal for a dwelling was refused as 'the proposal constitute[d] overdevelopment of a restricted site, result[ed] in an overcrowded and unsatisfactory arrangement of buildings which would have an adverse effect on the appearance and character of the surrounding area, and be detrimental to the residential amenities of the adjoining property'. Similarly in 1992 an application for a new dwelling was refused due to its impact on daylight and outlook. Finally

in 2003 a further proposal for a dwelling was refused as 'the proposed development on this restricted and steeply sloping site, would result in an unsatisfactory arrangement of dwellings with related loss of amenity for adjoining occupiers. In addition, amenity space for the proposed new dwelling would be unsatisfactory'.

The proposals of 1991 and 1992 were positioned to the rear of the site (the narrowest part of the site) and of horizontal proportions being very close to the boundaries of the site and in some cases touching the boundaries. In addition due to the position of the proposed dwelling it was positioned on a raised platform.

Each of the refused applications proposed a dwelling which was out of alignment with others in the locality and did not appear to follow the defined pattern of development either at Primley Park or Kelland Close. The previous withdrawn application similarly did not follow this alignment.

Character and Appearance:

The scheme will fit satisfactorily with the surrounding streetscene due to its design, siting and orientation.

The current application proposes a dwelling of a design and alignment to reflect those on the northern side of Primley Park. The design of the proposal features a catslide roof and a stepped design to the floor plan to mirror the design of the property immediately west of the site. The materials proposed would appear reasonably sympathetic to the surroundings however the choice of roof tile would not appear to relate well with others in the locality and for this reason a condition requiring the submission of materials has been recommended.

Notwithstanding this, the proposal is considered to blend satisfactorily with the surrounding built form and would not be considered out of place in this location, therefore the proposed dwelling is considered acceptable in terms of the character and appearance of the locality.

The size of the plot is comparable with others in Primley Park and Kelland Close and the size of the dwelling proposed is similar if not slightly smaller than others in the locality. The site is constrained due to its irregular shape and topography. However, the vertical emphasis to the footprint and the stepped design of the proposal, along with the proposed alignment, allows the dwelling to sit comfortably within the plot. There is a sufficient distance between the dwelling and the shared boundaries of the site, preventing a cramped appearance and the overdevelopment of the site.

Residential Amenity:

The proposal will have a satisfactory relationship to neighbouring properties and will preserve appropriate levels of residential amenity.

The alignment of the proposed dwelling follows the line of dwellings on the northern side of Primley Park. This alignment would prevent any elevations of the proposal and neighbouring properties in Kelland Close directly facing each other, limiting the impact of the openings in the proposed dwelling.

The topography of Primley Park results in 72 Primley being located at a higher level than 1 Kelland Close, the application site sits between these two plots. The path along the front boundary of the site would be at the same level as the first floor level of the proposed dwelling. Views from these rooms at this level would result in views afforded primarily above and beyond the properties in Kelland Close (over the rooftops). Whilst undoubtedly some views may be gained downward towards properties in Kelland Close, due to the orientation of the properties these views will not be directly on to flush elevations of properties in Kelland Close, instead these views will be offset.

In addition to this the proposal includes some tree screening, whilst it is noted that the arboricultural officer does not agree with the choice of species these will provide an element of screening (as the existing trees on site do) again helping to mitigate any impact on residential amenity. Furthermore, a landscaping condition will ensure that appropriate tree planting / screening is provided. In addition it is noted that there is a minimum distance of 20m between the proposal and 1 Kelland Close, 11m between the proposal and 3 and 5 Kelland Close and 14.5m between the proposal and 7 Kelland Close. As such, due to the orientation, position and alignment of the proposal and the distance and change in land levels between the site and the properties in Kelland Close the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of privacy.

Windows closest to shared boundaries are located on the western elevation facing number 72. Whilst these would primarily provide views on to a driveway, in light of the proximity of these windows to the boundary it is considered necessary to include a condition that the windows at ground level serving the utility and w.c. be obscure glazed with a restricted opening. The imposition of this condition is not considered to result in any detriment to the future occupiers of the dwelling, due to the use of these rooms.

Previous decisions have raised concerns regarding outlook and impact on daylight, these proposals have been positioned much closer to the eastern and northern boundaries of the site. The current proposal as noted above is a minimum distance of 11m from neighbouring properties in Kelland Close and ranges between 5-7m high (the highest part being located a minimum distance of 13m from neighbouring properties in Kelland Close).

The height and density of the existing trees along the shared boundary of the application site and Kelland Close have also been considered. However it is

noted that natural landscape features cannot be considered in the same way as built form.

The distance between the proposal and the shared boundaries and the neighbouring properties themselves and the design of the roof form and footprint are all material to the consideration of neighbouring living conditions. The proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant or overbearing. The proposal is considered to be a sufficient distance from the boundaries to not result in any serious detriment to outlook for the occupiers of the properties in Kelland Close.

The proposal is located at a lower level than 72 Primley Park and is aligned with the existing dwelling, it is also noted that the proposed dwelling is separated from living accommodation of 72 Primley Park by an existing driveway. In light of the above the proposal is not considered to result in any serious detriment to residential amenity by reason of loss of light or by reason of being unduly dominant for the occupiers of 72 Primley Park.

Private Amenity Space:

The proposal includes a rear garden space to the north of the site and space to the west of the site. Previous applications were refused due to the new dwelling having an 'unsatisfactory amenity space'. The current proposal would benefit from a greater outdoor space for amenity and having considered the size of the surrounding plots and specifically the amenity spaces afforded to them this proposal would not be dissimilar. In light of this the level of outdoor amenity space is considered sufficient.

Parking Provision:

The proposal benefits from two driveway parking spaces to the front of the dwelling. These spaces would be 5.8m long by 5.8m wide providing adequate parking for two cars plus a pedestrian access to the dwelling.

The Highways Officer has stated that providing these spaces are a minimum of 5.5m long and the calculations are submitted for approval there would be no highway objection.

Conditions to this effect have been recommended and an additional condition has been added to ensure the parking is provided prior to the dwelling being occupied.

Landscaping:

The proposal includes the removal of two trees and their replacement with four trees. These trees provide some visual amenity value due to their visibility and some screening between the existing properties in Kelland Close and the application site. The Arboricultural Officer has stated that providing the proposed

tree species are varied in accordance with his advise he would not raise an objection.

It is recommended that a condition to require details of landscaping is included in any permission. Such a landscaping condition will also include a requirement for the submission of boundary treatment and hardstanding details.

Drainage:

It is proposed that surface water drainage be dealt with via soakaways. The Council's Drainage Engineer has requested further details to demonstrate that a soakaway is a suitable option to deal with surface water. To this effect a condition has been recommended to ensure that drainage is provided via soakaways that comply with BRE Digest 365 unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. It is proposed that foul sewerage be disposed of via the main sewer and details on the drawings indicate that the site will drain to the sewer in Kelland Close and that the site benefits from a right of access to this sewer through Kelland Close. The proposal is for one additional dwelling and therefore it is considered that the impact on the capacity of the public sewer would not be greatly impacted however the ability of the public sewer to accommodate an additional dwelling will be thoroughly considered during the process of a building regulations application.

Other Issues:

Representations have been made regarding the impact of the proposed dwelling on the saleability of the properties in Kelland Close. Whilst noted, this would not constitute a material planning consideration.

S106/CIL -

As part of the application process the proposal has been assessed against the Council's adopted Planning Contributions and Affordable Housing Supplementary Planning Document and subsequent updates ('the SPD'). This requires all appropriate developments to mitigate any adverse impacts they may have, individually and collectively, on the community infrastructure of Torbay. In addition, the application has been assessed against the adopted Council Report 'Third Party Contributions towards the South Devon Link Road', which seeks contributions towards funding the South Devon Link Road (SDLR) where new development impacts on, or contributes to the need for the SDLR.

The following contribution is required, based on the type and size of the development proposed:

FINANCIAL CONTRIBUTION:

Waste Management	£ 50.00
Sustainable Transport	£2,191.25
Education (in Paignton only)	£ 671.25
Lifelong Learning – Libraries	£ 141.25
Greenspace and Recreation (where no onsite public open space)	£1,891.25
South Devon Link Road (subtracted from sustainable development contributions)	£ 635.00
TOTAL FOR DEVELOPMENT (inc 5% admin charge)	£5,859.00
Total for development with 5% early payment discount (inc 5% admin charge)	£5,566.05

Conditions:

In addition to the conditions noted above regarding surface water drainage, landscaping, materials and parking it is also recommended to include a condition relating to the removal of permitted development rights. Whilst at present the proposed dwelling is considered acceptable the inclusion of extensions to the rear and sides of the development may result in a detrimental impact to residential amenity by reason of proximity to boundaries or an undue loss of private amenity space and therefore it is considered necessary to ensure that any additions to the dwelling are subject to planning consideration.

Conclusions

The proposal is considered acceptable in this location and without serious detriment to residential amenity of neighbouring occupiers or the character or appearance locality. The sustainable development contribution is to be paid via a section 106 agreement.

Condition(s)/Reason(s)

01. The development shall not commence until samples of all the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the development will harmonise visually with the character and appearance of the site and its surroundings in accordance with policy BES and BE1 of the Torbay Local Plan 1995-2011.

02. Prior to the occupation of the dwelling the windows in the western elevation serving the w.c. and utility room shall be fitted with level 4 obscure glazing and a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition.

Reason: In the interests of adjoining amenity in accordance with policy H9 of the Torbay Local Plan 1995-2011.

03. Prior to the occupation of the dwelling, hereby approved, the parking facilities shown on the plans hereby approved, shall be provided and made available for use. The parking area shall be retained for the parking of vehicles at all times thereafter to serve the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy T25 of the Torbay Local Plan 1995-2011.

04. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority: (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land: (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.(3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land: (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The proposed dwelling shall not be occupied until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

05. Notwithstanding Drawing Number 291/1a, the development shall not commence until full details of hard and soft landscape works, including an implementation and management plan, have been submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges, finished levels, planting plans, tree pit design, planting specification and post planting maintenance including watering and replacement of losses. The hard landscape works shall include means of enclosure and boundary and surface treatments. All works shall be carried out in accordance with the approved details and the implementation plan and thereafter maintained in accordance with the approved management plan.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with H9 of the Torbay Local Plan 1995-2011.

06. Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Classes A, B, C, D, E, F and G of Part 1 and Classes A and C of Part 2 of Schedule 2 (which includes enlargement, improvement or other alteration, porches, sheds, greenhouses, huts, oil storage tanks, fences and walls) shall be constructed (other than hereby permitted, or unless the prior written consent of the Local Planning Authority has been obtained).

Reason: To ensure that the character and appearance of the locality are protected and to avoid overdevelopment in the interests of local amenity in accordance with policy H9 of the Torbay Local Plan 1995-2011

Informative(s)

01. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds, reptiles and badgers, all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations shall be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring legally protected badgers, and reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Any excavations shall be fenced off at night to prevent threat of injury to badgers. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England

guidelines for protected species.

02. The applicants attention is drawn to the need to submit calculations to the highways authority for the construction of any retaining structure supporting or adjacent to the highway. Any works on the highway will need to be performed under licence to the highways authority by a contractor that is suitably qualified to work on adopted public highway with a minimum of £5 million public liability insurance.

Relevant Policies

H9 - Layout, and design and community aspects
BE1 - Design of new development
BES - Built environment strategy
EPS - Environmental protection strategy
T25 - Car parking in new development
NPPF- National Planning Policy Framework