

**Application Number**

P/2015/0289

**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 (27 flats in total) and associated parking (14 spaces for new block of flats and 8 additional spaces for existing properties) (revision to refused application ref. P/2013/0698) (variation of condition P1 of original planning permission P/2013/1125 - variation to facade treatments) (Revised Plans received 18.05.15)

**Executive Summary/Outcomes**

This application seeks minor material amendments to the rear elevation of a 4 storey block of flats behind the Snooty Fox public house, St Marychurch, Torquay, and the addition of a louvred fence panel to the rear boundary wall. The development was granted planning permission in February 2014 and is nearing completion. The s106 agreement for the scheme required the available funding from the development to be used to renovate the derelict, listed Pavor Farmhouse building to the north of the site, and the completion of these works within 3 years of commencement of the Snooty Fox development. The Pavor Farmhouse renovation works have now been completed.

The amendments include the reduction of the previously approved 1.8m high privacy screens on the first floor balconies to 1.1m. This will have the positive effect of allowing more light into the first floor flats, the balconies of which are covered by soffit panelling. Two floor to ceiling height solid wall panels which form the edge of the balconies of two of the flats will also be removed on the first and second floors. This will also allow more light into the main living spaces of these flats, which are behind the wall panels, significantly improving the living conditions of these flats.

Objections to the proposed amendments have been received from the residents of the three adjoining Rowley Road dwellings. Their primary concern is the impact of the lowering of the first floor privacy screens on their privacy and amenity. Officers have carried out a site visit and consider that the reduction in

height of the first floor privacy screens is acceptable, as views of the neighbouring gardens and windows are blocked by the existing boundary wall, which is topped with ivy. Furthermore, it is considered that the impact would be minimal if the ivy was cut or died from disease in the future. Members of the Development Management Committee will be visiting the site before the July meeting of the Committee.

The relatively small louvred fence panel (0.9m high x 1.8m wide) was added to the proposals by the developers in response to objections received from 4C Rowley Road. It will block a gap where the boundary wall drops in height and prevent oblique angle views from the balcony of the end first floor flat. Therefore, it will be an improvement to the scheme. It has been discussed with the Senior Heritage and Design Officer and will not have an adverse impact on the character and appearance of the conservation area.

Ordinarily a deed of variation is required to link s106 agreements to the planning permissions granted to allow minor material amendments. However, as the Pavor Farmhouse works have been completed, legal advice will be sought to see whether this is still necessary in this case.

### **Recommendation**

Conditional approval; subject to a deed of variation to the s106 agreement pertaining to the original planning permission to ensure that it also applies to this application, unless Legal Services confirm this is not necessary.

### **Statutory Determination Period**

The application was validated on 27.03.2015 and the statutory 13 week determination date is 26.06.2015. The applicants have agreed to extend the determination date to 17.07.2015 following revisions to the proposals.

### **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. The site is in the process of being redeveloped for a block of flats under planning permission ref. P/2013/1125.

Access to the site is provided by a private access road from Petitor Road. This is currently unsurfaced, but will be resurfaced as part of the approved scheme. This leads to a parking area, which will be used by the flats and other surrounding properties.

The site is bounded by: Colsons Cottages and the rear gardens of properties fronting Petitor Road to the north; the access road 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 existing residential properties are accessed via the parking area to the west of the site: 1 and 2 Petitor Apartments.

There is stone wall running along the southern boundary of the site, which is topped with ivy. This separates the development site from properties facing Rowley Road. The neighbouring 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 the neighbouring properties. In general, the top of the wall is level with the eaves height of the neighbouring properties.

The site is located within St Marychurch District Centre and the St Marychurch Conservation Area, in accordance with the Adopted Torbay Local Plan 1995-2011 ('the Local Plan'). The site is also located within a Traffic Management Zone (TMZ). The site has been removed from the District Centre in the Torbay Local Plan - A landscape for success ('the emerging Local Plan') and is identified as a committed development site.

### **Detailed Proposals**

The original application was to develop a block of flats on the site (27 flats) and this was approved in February 2014. The current application seeks minor material amendments to the rear elevation and the addition of a louvred fence panel (0.9m high x 1.8m wide) on the boundary wall where it is lower at one end to improve privacy to 4C Rowley Road.

The minor amendments to the rear elevation include the replacement of a solid wall panel on part of the balconies of flats 16 and 24 with the same privacy screens as all the other flats on these floors. In addition, the heights of the privacy screens on the first floor have been lowered from 1.8m to 1.1m and more columns have been added to support the soffits over the balconies.

The proposals were revised during the course of the application by adding the fence panel on the boundary wall in response to objections received. In addition, the heights of the privacy screens on the second floor were revised back to 1.8m from 1.75m, in accordance with the original plans.

### **Summary Of Consultation Responses**

As the application is a section 73 application to make minor material amendments to an extant planning permission, the Council has discretion over the extent of any consultation carried out. In this case, no consultation was considered necessary, due to the minor nature of the proposals. Full statutory and non-statutory consultation was undertaken for the original application.

### **Summary Of Representations**

Notwithstanding the above, the application was publicised in accordance with the statutory requirements in full. Additional publicity was undertaken for the revised proposals. This is because officers recognise that local residents have previously expressed significant concerns about the impact of the development on their amenity.

5 representations were made objecting to the application before revisions were carried out. 4 representations were made objecting to the revised proposals, all of which were from the same objectors as previously and two of which were from the same person.

The following issues were raised with regard to the original proposals:

- Object to reduction in height of second floor privacy screens from 1.8m to 1.75m - should remain at 1.8m.
- Impact on privacy of Rowley Road properties from overlooking from top floor (NB. not relevant to current application).
- Not enough parking (NB. not relevant to current application).
- Building is out of character in context of conservation area (NB. not relevant to current application).
- Argument that additional light is required in flats is poor. Full height glazed screens will allow light in but protect privacy.
- Removal of solid screens increases opportunities for overlooking.
- Lowering of first floor screens will allow opportunities to have clear views into neighbouring bedrooms if ivy on top of the wall is cut.
- Lowering of second floor screens will allow opportunities for overlooking neighbouring bedrooms.
- Screens should be retained to mitigate potential noise from flats.
- Two parking spaces and turning head on land not belonging to developer (NB. not a material consideration and not relevant to current application).
- Against lower balconies - higher balconies required for health and safety.

The following issues were raised with regard to the revised proposals:

- Revised plans still do not address the issues of privacy and noise.
- Lowering of first floor screens will allow opportunities to have clear views into neighbouring bedrooms if ivy on top of the wall is cut, or becomes diseased and dies.
- Proposed fence panel on boundary wall is shabby and cheap - difficult to maintain and potential health and safety issue.
- Removal of solid screens increases opportunities for overlooking.
- 1.5m high screens on third floor will not protect privacy (NB. not relevant to current application).
- Screens must be measured from finished floor levels of balconies.
- Concern that flat roof area will be used for sitting out on.
- 1.8m screens should be retained to mitigate potential noise from flats.
- Argument that additional light is required in flats is poor. Full height glazed screens will allow light in but protect privacy.
- Fence panel would be out of context and an eyesore.

These representations have been electronically sent to Members for their consideration.

### **Relevant Planning History**

P/2013/1125/MPA: Erection of four storey block of flats containing fourteen no. 1-bed flats and thirteen no. 2-bed flats (27 flats in total) and associated parking (14 spaces for new block of flats and 8 additional spaces for existing properties) (revision to refused application ref. P/2013/0698): Approved 05.02.2014

P/2013/0698/MPA: 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: Refused 21.10.2013

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

P/2012/0471/PA: Formation of 2 dwellings for plots 33 and 34 with vehicle and

pedestrian access - works commenced: Approved  
13.08.2012

- 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/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/2001/1391: Residential Development To Provide 12 Houses With Garages, Car Parking And Vehicular And Pedestrian Access: Approved 26.07.2002
- 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/2001/0369: Residential Development To Provide 12 Houses With Integral Car Parking Facilities And Access Road (In Outline): Refused 04.05.2001
- 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

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

The key issues are:

1. Impact of the Amendments on Amenity of Flats
2. Impact of the Amendments on Amenity of Neighbouring Properties
3. Design and Impact on Character and Appearance of Conservation Area

#### **1. Impact of the Amendments on Amenity of Flats**

The first floor flat balconies are covered. Therefore, lowering the privacy screens on this floor from 1.8m to 1.1m will improve the amount of daylight into these flats and their amenity. This accords with Policy DE3 of the emerging Local Plan. This will also be the case for flat 16 on the first floor and flat 24 on the second floor by the removal of the floor to ceiling height solid wall panels on the balconies to these flats, behind which are open plan kitchen-living rooms.

Therefore, it is considered that the proposed amendments will have a positive impact on the living conditions of the four first floor flats to the rear of the building and also flat 24 on the second floor.

## **2. Impact of the Amendments on Amenity of Neighbouring Properties**

The revised proposals seek the reduction in height of the privacy screens on the first floor from 1.8m to 1.1m. The heights of the privacy screens on the second and third floors will remain the same as the original approved application.

The reduction in height of the privacy screens on the first floor is considered to be acceptable. Due to the boundary wall, which is topped with ivy, it is not possible to overlook the gardens or windows of the adjoining Rowley Road properties from these balconies. This assessment is based on a site visit carried out and the submitted section plans. Whilst the neighbours have raised the possibility of the ivy being cut or dying in the future, the relationship is still considered to be acceptable given the separation distance between the buildings and likelihood of views of only the top parts of the upper floor windows at most.

Objectors have pointed out that decking may have been placed on the balconies after officers carried out their site visit. This will raise the finished floor levels of the balconies and have the effect of reducing the height of the privacy screens. Therefore, it is recommended to add a new condition requiring the heights of the balconies to be measured from the finished floor levels of the balconies.

Neighbours have also raised the issue of noise impact from the flats and the potential for this to be made worse by lowering the height of the privacy screens on the first floor. Noise impact was not considered to be a significant issue for the original application. The change of use from public house function rooms to residential would ordinarily be considered to be an improvement in this regard, as dwellings are normally considered to be a 'quiet' use. On balance, the reduction in height of the privacy screens by 0.7m for only four of the flats is not considered likely to result in an increase in noise that is significant enough to justify refusal of the application.

In response to objections received, the proposals were revised to include provision of a 0.9m high x 1.8m wide louvred fence panel on the boundary wall where there is a gap between the end first floor flat and 4C Rowley Road. Whilst the gap is relatively small, the fence panel will prevent oblique views from the end first floor flat balcony overlooking 4C Rowley Road and is therefore considered to be an improvement to the original scheme.

Overall, it is considered that the proposed amendments are acceptable and would not have an adverse impact on the privacy or overall amenity of the neighbouring residential properties.

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

The minor amendments to the rear elevation of the building are not considered to be significant from a design point of view and are therefore considered to be acceptable. In addition, the limited size of the fence panel on the boundary wall and likelihood of only glimpsed views of it from Rowley Road mean that it will not have an adverse impact on the character and appearance of the conservation area.

#### **S106/CIL -**

Following an independent viability assessment, it was concluded that the original application could afford a financial contribution totalling £42,745.50. It was agreed that this money would be used to part fund the redevelopment of Pavor Farmhouse, a derelict listed building, to the north of the site.

The s106 agreement required the completion of the Pavor Farmhouse works within 3 years of commencement of the Snooty Fox development, or the contribution must be paid to the Council towards waste management, the South Devon Link Road and affordable housing. As the developers have now completed the Pavor Farmhouse works, legal advice will be sought to see whether a deed of variation is still required to link this application to the s106 agreement.

#### **Conclusions**

The amendments to the rear elevation of the building are considered to be acceptable and will improve the living conditions of five of the flats by allowing more light into them. Whilst objections have been received by residents of the neighbouring properties on Rowley Road, it is considered that the lowering in height of the first floor balcony privacy screens from 1.8m to 1.1m is acceptable, as, following a site visit, it is clear that there will be no adverse overlooking from these balconies of the neighbouring residential properties. A new condition should be added though to ensure that the heights of the privacy screens are measured from the finished floor levels of the balconies.

The addition of a relatively small louvred fence panel to the top of the boundary wall where it steps down in height on the corner of the garden of 4C Rowley Road is also considered to be acceptable, as it will prevent oblique views from the balcony of the end first floor flat from overlooking this property.

In conclusion, the minor amendments are considered to be acceptable and the application should be approved.

#### **Condition(s)/Reason(s)**

01. Prior to the installation of the windows on the building, details of the



specification of the windows shall be submitted to and approved in writing by the Local Planning Authority. The windows shall be installed as approved and should any become damaged and need replacement shall be replaced with windows of the same specification.

Reason: To protect the amenity of the neighbouring dwellings with regard to noise in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and paragraph 17 of the NPPF.

02. Prior to the installation of the privacy screens on the balconies on the rear elevation of the building hereby permitted, details of the specification of the privacy screens shall be submitted to and approved in writing by the Local Planning Authority. The privacy screens shall be installed as approved and should any become damaged and need replacement shall be replaced with privacy screens of the same specification.

Reason: To protect the privacy of the neighbouring dwellings in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and paragraph 17 of the NPPF.

03. Prior to the occupation of any of the dwellings hereby permitted, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority setting out measures that will be undertaken to encourage and facilitate the use of sustainable modes of travel by the future occupants of the dwellings instead of the private car. The development shall be promoted as a low car development in the Travel Plan. The measures shall be implemented as approved.

Reason: To encourage and facilitate the use of sustainable modes of travel by the future occupants of the dwellings in accordance with saved Policies TS and T2 of the Adopted Torbay Local Plan 1995-2011 and Section 4 of the NPPF.

04. Prior to the occupation of any of the dwellings hereby permitted, an external lighting scheme of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the specification of the external lighting to account for the protection of the amenities of neighbouring properties from light pollution. The external lighting scheme shall be implemented as approved prior to the occupation of any the dwellings. Should any of the external lighting become damaged and need replacement it shall be replaced with external lighting of the same specification. No additional external lighting shall be installed on the building or the site.

Reason: In the interests of crime prevention in accordance with saved Policy CF2 of the Adopted Torbay Local Plan 1995-2011 and to ensure the protection of neighbouring properties from light pollution in accordance with saved Policies H9 and EP5 of the Adopted Torbay Local Plan 1995-2011 and paragraph 17 of the

NPPF.

05. The development shall be built to Secured by Design Standards and shall aim to achieve a full certification in this regard. Evidence that this has been achieved shall be submitted to and approved in writing prior to the occupation of any of the dwellings. This shall account for the advice by the Police Architectural Liaison Officer.

Reason: In the interests of crime prevention in accordance with saved Policy CF2 of the Adopted Torbay Local Plan 1995-2011.

06. Prior to the occupation of any of the dwellings hereby permitted, secure lockable gates of no less than 1.8 metres in height shall be installed at each end of the side access to the west of the building and as near to the building line as possible.

Reason: In the interests of crime prevention in accordance with saved Policy CF2 of the Adopted Torbay Local Plan 1995-2011.

07. None of the dwellings shall be occupied until all of the car parking spaces and access thereto shown on the approved plans have been provided and made available for use. The car parking spaces shall be kept permanently available for parking and access purposes thereafter, and shall be clearly marked as being designated to individual dwellings and/or visitors parking.

Reason: To ensure that adequate off-street parking and access there to is provided and kept permanently available for use, in accordance with saved Policies T25 and T26 of the Adopted Torbay Local Plan 1995-2011, and in the interests of highway safety and in order to protect the residential amenities of the neighbourhood.

08. The existing boundary wall along the southern boundary of the site shall be retained permanently and if is damaged during the construction of the development it will be made good by the developer.

Reason: In the interests of design and amenity, and in order to accord with saved Policies H9, BES and BE5 of the Adopted Torbay Local Plan 1995-2011.

09. The heights of the first floor privacy screens on the rear elevation of the building shall be 1.1 metres measured from the finished floor level of the first floor balconies. The heights of the second floor privacy screens on the rear elevation of the building shall be 1.8 metres measured from the finished floor level of the second floor balconies. The heights of the third floor parapet wall and privacy screens atop together shall be 1.5 metres measured from the finished floor level of the third floor balconies.

Reason: For the avoidance of doubt and to ensure that the privacy of the neighbouring dwellings are protected in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and paragraph 17 of the NPPF.

10. The louvred fence panel hereby approved on the wall sited along the southern site boundary shall be installed prior to the occupation of the first flat to be sold and shall be retained permanently. If it is damaged and need replacement it shall be replaced by a panel of the same or similar specification.

Reason: To ensure that the privacy of the neighbouring dwelling is protected in accordance with saved Policy H9 of the Adopted Torbay Local Plan 1995-2011 and paragraph 17 of the NPPF.

### **Relevant Policies**

- H9 Layout, and design and community aspects
- BES Built environment strategy
- BE1 Design of new development
- BE2 Landscaping and design
- BE5 Policy in conservation areas