

**Application Number**

P/2017/1160

**Site Address**Cantina  
Youngs Park Road  
Paignton  
TQ4 6BU**Case Officer**

Gary Crawford

**Ward**

Goodrington With Roselands

**Description**

Single storey wraparound extension with two roof lights, front entrance ramp, new entrance doors and installation of storage unit (revised plans received 11.01.2018).

**Executive Summary/Key Outcomes**

The application relates to an established café, bar and restaurant situated at the north side of Youngs Park. This proposal is for the erection of a single storey wraparound extension with roof lights, a new front entrance ramp, new entrance doors and the installation of a storage unit.

The proposal is an investment in an existing business in a popular tourist area close to Goodrington beach that will improve facilities for tourists within a Core Tourism Investment Area. The applicant has advised that the proposal would safeguard 46 full and part time jobs and create potential for the equivalent of 4 new full time positions. Although the application site is located within Flood Zone 3, which has the highest probability of flooding, the applicant has detailed that the proposed floor level for the new extension would match that of the existing building. Whilst a minor revision to the submitted plans has been requested with regards to the proposed roof lights, it is considered that the design and appearance of the proposed extension would make a positive contribution to the appearance and character of the area. Therefore, it is deemed that the proposed development would be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

**Recommendation**

Conditional approval subject to the receipt of amended plans regarding the proposed roof lights and additional drainage information. Final drafting of conditions to be delegated to the Executive Head of Assets and Business Services.

**Reason for Referral to Development Management Committee**

As the development is on Council owned land and two objections have been received, the Council's constitution requires the application to be referred to the Development Management Committee for determination.

**Statutory Determination Period**

The determination date was 5th January 2018. The application has exceeded the determination date to allow the submission of revised plans to address concerns raised

by officers.

### **Site Details**

The application relates to a detached building situated at the northern end of Youngs Park, Paignton. The building is currently in use as a café and features arched windows, a flat roof with a terracotta tiled parapet wall and a hipped roof tower. There is a storage area to the east of the café building which is surrounded by an existing wall and fence. The host building is situated in between a shelter and a public convenience block, and a public footpath runs along the front entrance of the building. The site is located within a Core Tourism Investment Area as designated in Policy TO1 (Tourism, events and culture) of Torbay Local Plan 2012-2030 and the site is also designated as an Urban Landscape Protection Area in Policy C5 (Urban Landscape Protection Areas) of the Torbay Local Plan. The site is located within Flood Zone 3.

### **Detailed Proposals**

The application is for the erection of a single storey wraparound extension with roof lights, a new front entrance ramp, new entrance doors and the installation of a storage unit. The proposed extension would be modern in appearance with a metal clad flat roof and roof lights, a glazed aluminium curtain wall and render. A pre-fabricated storage unit would be sited to the east of the café building, behind an existing 2.9m high boundary wall. The submitted scheme has been amended by the applicant at the request of officers during the course of the application to alter the roof and to reduce the internal area of the proposed wraparound extension. The amended plans also included four additional roof lights in the extension.

### **Summary Of Consultation Responses**

Strategic Transport: The site lies within the Core Tourism Investment Area (TA1 &TA2 and the ULPAC5.42, Coastal Change C3, South West Coast Path Policy SS6.3 and National Cycle Route) and therefore it would be reasonable to request the provision of secure cycle storage area for staff (one space per two employees) or a cycle parking facility (such as Sheffield cycle stands) for staff & customers in accordance with Policy TA1, TA2 and TA3 of the Local Plan (Appendix F). If the applicant can set out the maximum number of staff on site at any one time, this figure could be used in conjunction with some visitor provision.

The Planning Contributions & Affordable Housing SPD considers the contribution to employment/economic impact of the proposal and it would be reasonable to discount the additional part time jobs created. In this case, as the job creation would mitigate the majority of the additional trips generated and no site acceptability measures have been identified, no additional contributions are required.

A construction management plan (CEMP) should be submitted to ensure that public areas on the footway and promenade are not unduly obstructed. This could be conditioned.

Drainage Engineer: The proposed development lies within Flood Zone 3 and a site specific flood risk assessment has been submitted with the application. This site specific flood risk assessment identifies the sources of flooding together with proposed mitigation measures.

Within the flood risk assessment, it identifies that infiltration testing has been carried out at the site and the results of this infiltration testing confirms that infiltration testing will not be feasible at this location.

As a result of the infiltration testing the developer is proposing to discharge surface water drainage from the development at a controlled discharge rate to the combined sewer system. The controlled discharge rate has been set at 1.0 l/sec by South West Water and this complies with the requirements of the Torbay Critical Drainage Area.

There are no hydraulic calculations included within the flood risk assessment for the proposed surface water drainage system.

The developer must demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. Therefore the developer must supply hydraulic calculations for the entire surface water drainage system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

Before planning permission can be granted, the applicant must supply details and designs for the entire surface water drainage system for this development.

Police Designing out Crime Officer: It is recommended that all external doors and accessible windows, including roof lights, are sourced as tested and certificated products to ensure a consistent and fit for purpose level of security for the premises.

The overhang of the building, in parts, will assist in deterring and preventing climbing up onto the roof but an assessment should be considered in order to identify any potential vulnerable locations that could enable an offender to climb up onto the roof and gain access to the roof lights.

External recessed and concealed areas should be avoided wherever possible to prevent creating cover for criminal activity or unwanted or inappropriate loitering.

### **Summary Of Representations**

Two letters of objection and 23 letters of support have been received. Issues raised by the objectors:

- Impact on local area
- Not in keeping with local area
- Impact on traffic and access
- Block off a public right of way
- Loss of local green space.

The comments in support of the application included:

- It provides facilities
- Provides/retains jobs
- Improves tourist facilities
- It's shown in the Local Plan.

### **Relevant Planning History**

P/2011/0922: Alterations and formation of extension to side of the existing cafe joining it to the exiting shelter and extend paved area and a low level raised deck to provide a larger outside seating area. Approved 19/10/2011.

P/2016/0522: Installation of 2no Translucent roof lights (Retrospective). Approved 11/7/2016.

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

The key issues to consider in relation to this application are:

1. Principle of the development
2. Visual impact
3. Impact on amenity
4. Highways impacts
5. Flooding
6. Impact on footpaths.

#### **1. Principle of the development**

Policy TO1 (Tourism, events and culture) of the Torbay Local Plan supports in principle the improvement of existing and provision of new tourist accommodation and attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. Furthermore, Policy TO1 will be achieved via the retention, improvement and creation of new, high quality tourism and leisure attractions, facilities and accommodation in sustainable, accessible locations with a particular focus on Core Tourism Investment Areas (CTIAs), which include Goodrington Sands and Clennon Valley in Paignton. Given that the application site is located within the Goodrington Sands and Clennon Valley CTIA, and as the proposal involves the improvement of an existing tourist attraction, it is deemed that the principle of the development is acceptable, subject to compliance with other relevant Local Plan Policies.

Policy SDP1 of the Torbay Local Plan states that the role of Goodrington as a leisure and employment hub will be promoted and enhanced, whilst protecting the areas environmental assets. In addition, Policy SS1 (Growth Strategy for a prosperous Torbay) of the Torbay Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 (The economy and employment) of the Torbay Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the

economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, including tourism, hotel and catering. The applicant has detailed in the submitted Design and Access Statement that the proposal would safeguard 46 full and part time jobs and create potential for the equivalent of 4 new full time positions.

A restaurant (Class A3 use) is designated as a main town centre use in the Glossary of the National Planning Policy Framework (NPPF). Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre, however, this test should be balanced against other benefits of the proposal, including the improvement of existing tourism and leisure facilities in a core tourism investment area. Policy TO1 (Tourism) of the Torbay Local Plan states that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. Policy TO1 details further that Torbay Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services. This will be achieved through the following measures:

- Supporting in principle the improvement of existing and provision of new tourist accommodation and attractions.
- The retention, improvement and creation of new, high quality tourism and leisure attractions, facilities and accommodation in sustainable, accessible locations with particular focus on Core Tourism Investment Areas (CTIAs).

Given that the application site is located within the Goodrington Sands and Clennon Valley CTIA as designated in Policy TO1, and the proposed extension would improve the provision of tourist attractions, it is considered that the principle of the proposed development is acceptable and a sequential test is not required.

## **2. Visual impact**

Policy DE1 (Design) of the Torbay Local Plan details that development should be well-designed, respecting and enhancing Torbay's special qualities. Policy C2 (The coastal landscape) of the Torbay Local Plan specifies that in the developed areas of coast, development will be permitted where it provides benefit to Torbay's economy and does not unacceptably harm the landscape character and appearance of natural, historical or geological assets.

The application site is located within an area designated as an Urban Landscape Protection Area in Policy C5 (Urban Landscape Protection Areas) of the Torbay Local Plan 2012-2030. Policy C5 specifies that development within Urban Landscape Protection Areas (ULPAs) will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

The northern end of Youngs Park features a number of single storey structures including

the existing café building, a public shelter and a public convenience block. As such, it is considered that an extension to an existing building would not undermine the value of the ULPA. Whilst the proposed extension would be contemporary in terms of its design and would differ from the design of the existing building, given that the proposed materials would provide the extension with a lightweight appearance, it is considered that the extension would not adversely affect the character and appearance of the existing building. In addition, it is deemed that the extension would make a positive contribution to the urban environment and enhance the landscape character of the ULPA. Due to the positioning of the proposed storage unit behind an existing 2.9m high boundary wall and given the temporary nature of the storage unit, this element of the proposal would not be particularly visible from the public realm and it is deemed that it would not have a significantly adverse effect on the character of the ULPA.

As such, it is considered that the proposal would comply with Policies DE1, C2 and C5 of the Torbay Local Plan.

### **3. Impact on amenity**

Due to the approximate 35m distance between the proposed extension and storage area, and the nearest residential property, it is deemed that the proposal would not result in any harmful impacts upon the amenity of neighbouring properties.

### **4. Highways impacts**

There is a public car park located on the south western side of Youngs Park and a National Cycle Network runs through the middle of Youngs Park. The Council's Strategic Highways Officer has noted that the site lies within the Core Tourism Investment Area (TA1 &TA2 and the ULPAC5.42, Coastal Change C3, South West Coast Path Policy SS6.3 and National Cycle Route,) and therefore it would be reasonable to request the provision of secure cycle storage area for staff (one space per two employees) or a cycle parking facility (such as Sheffield cycle stands) for staff & customers in accordance with Policy TA1, TA2 and TA3 of the Local Plan (Appendix F). If the applicant can set out the maximum number of staff on site at any one time, this figure could be used in conjunction with some visitor provision. With the provision of appropriate cycle parking, there is no objection to the development in principle.

The Planning Contributions & Affordable Housing SPD considers the contribution to employment/economic impact of the proposal and it would therefore be reasonable to discount the additional part time jobs created. In this case, as the job creation would mitigate the majority of the additional trips generated and no site acceptability measures have been identified, no additional contributions are required.

With the provision of cycle parking, which can be secured by way of condition, the proposal is considered to accord with Policies TA1 and TA3 of the Torbay Local Plan.

### **5. Flooding**

The application site is located within Flood Zone 3 which has the highest probability of flooding. The Environment Agency's standing advice for minor developments in Flood Zone 3 is that floor levels are either no lower than existing floor levels or 300 mm above

the estimated flood level. The submitted Flood Risk Assessment (FRA) details that the proposed floor level for the new extension would match that of the existing building at 2.189m above Ordnance Datum and it is therefore considered that the proposal would comply with the Environment Agency's standing advice.

The submitted FRA identifies that infiltration testing has been carried out at the site and the results of this infiltration testing confirm that infiltration testing will not be feasible at this location. The council has requested the submission of further information with regards to the impact of the proposed development on drainage and these details will be reported at DMC.

## **6. Impact on footpaths**

Concerns have been raised with regards to the proposed extension blocking a public right of way at the front of the building. Whilst there is an existing footpath which runs across the front of the existing Cantina building, this path is not a Public Right of Way. Whilst the existing footpath which runs along the front of the building would be slightly re-routed, a footpath along the front of the building would be maintained. The retention of a footpath in front of the building can be secured by condition.

### **Paignton Neighbourhood Plan**

The Paignton Neighbourhood Plan completed its Regulation 16 Publicity Period consultation on 18th December 2017. It is expected that the Neighbourhood Plan will be subject to Independent Examination in Spring 2018. As such, it is at an advanced stage of preparation. NPPF paragraph 216 (in Annex 1) states that from the date of publication, decision takers may give weight to relevant policies in emerging plans (unless material considerations indicate otherwise) according to their stage of preparation, extent to which there are unresolved objections and degree of consistency with national planning policies. Relevant policies in the Paignton Neighbourhood Plan now carry some weight as they have now completed two rounds of public consultation and reflect the wishes of the Neighbourhood Forums. The weight afforded to emerging Neighbourhood Plan policies is a matter for the decision taker in accordance with the NPPF 216 criteria. Relevant policies of the Paignton Neighbourhood Plan include:

- Policy PNP25 (Clennon Valley)

Policy PNP25 details that within the area of Clennon Valley and Goodrington Seafront, development proposals will be supported that:

- o Retain and enhance the natural landscape character of the valley, biodiversity and waterway flowing through;
- o Safeguard footpaths and facilities used by local residents;
- o Improve provision of facilities for tourists that widen the tourism offer;
- o Provide facilities that will be resilient to flood risk; and
- o Widen the provision of all-weather tourist attractions.

The proposed development would improve the provision of tourism facilities at Goodrington Seafront and it would widen the provision of all-weather tourist attractions.

Whilst the existing footpath which runs along the front of the building would be slightly re-routed, a footpath along the front of the building would be maintained.

### **S106/CIL**

As the proposed extension is less than 300 sq m, the development is not CIL liable.

### **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.

### **Conclusions**

In conclusion, the proposal is an investment in an existing business in a popular tourist area close to Goodrington beach that will improve facilities for tourists within a Core Tourism Investment Area. It is also considered that the design and appearance of the proposed extension would make a positive contribution to the appearance and character of the area. Therefore, it is deemed that the proposed development would be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

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

01. No development shall take place until details and designs for the entire surface water drainage system for the development have been submitted to and approved in writing by the Local Planning Authority.
02. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority.
03. Prior to the occupation of the extension, details of cycle parking to serve the development shall be submitted to and approved in writing by the Local Planning Authority.

### **Relevant Policies**

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