

**Application Number**

P/2018/0100

**Site Address**Limestone Court  
St James Road  
Torquay  
TQ1 4FT**Case Officer**

Verity Clark

**Ward**

Tormohun

**Description**

2 New Dwellings, parking area and associated engineering operations to cliff face.

**Executive Summary/Key Outcomes**

The application site is accessed via the south car park associated with Limestone Court and is an area to the South East of the site to the rear of the children's community centre building on St James Road and bounded by the quarry face.

The proposal seeks to form two semi-detached residential dwellings with an associated parking area. To facilitate the proposal the excavation of a section of the cliff is proposed.

The principle of new residential development is accepted and the proposal is considered to be of a suitable size, scale, massing and visual appearance for the plot within the context of the site and the surrounding streetscene. The proposal will provide adequate internal and external amenity space however there is a potential concern with the level of light afforded to the proposed dwellings due to the proximity to the cliff face and the proximity of Limestone Court. Sun shadow surveys have been submitted however analysis of the surveys has not been submitted therefore it has not yet been established whether the proposed dwellings would be served by adequate light levels. The agent has advised that this information will be submitted in support of the application. Members will be verbally updated on this issue at Committee.

The proposal is not considered to impact on neighbour amenity as the proposal does not include windows on the South West side elevation and is sited to sit behind the single storey children's community centre building on St James Road. As the built form is due north of the terraced properties of 1-9 St James Road and does not sit directly behind the gardens of these terraced properties the proposal is not considered to result in a significant detriment to the amenity of these properties by way of overbearing impact, loss of light or reduced privacy. The proposal is also considered to have an acceptable relationship with Limestone Court due to the separation distances.

The proposal is considered to be acceptable in terms of highways impact and ecology whilst issues surrounding drainage and contamination can be agreed by way of a planning condition.

The proposal includes a geotechnical statement which provided details of the works required to the cliff. A consultation was requested from the Council's engineering department to confirm if the proposed works are considered to be reasonable. At the time of writing the report no response had been received. Members will be verbally updated on this issue at Committee.

A revised OS plan has been requested as the original did not include the works to the cliff within the red line or an access to the highway in blue. Once this is received a further 14 day consultation period will take place. Members will be verbally updated if additional responses are received.

The application is recommended for conditional approval.

The application has been referred to Development Management Committee due to the number of objections that have been received.

### **Recommendation**

Conditional approval subject to no representations being received during the re-consultation period that raise new issues and the receipt of further information confirming that the proposed new dwellings will have adequate levels of light and that the contents of the geotechnical statement regarding removal of approximately 1m of cliff face is agreed. Final drafting of conditions to be delegated to the Executive Head of Assets and Business Services.

### **Statutory Determination Period**

8 weeks. The determination date is the 28th March 2018.

### **Site Details**

The site, Limestone Court, St James Road, Torquay, was previously operated as Jewsons Builders Merchants from the quarry site. Approval was granted under P/2014/1231 to demolish the existing storage sheds and replace with a block of flats fronting the street and, as a second element, the construction of a new office space located towards the rear of the site.

The site subject to this application is accessed via the south car park associated

with Limestone Court and is an area to the South East of the site to the rear of the children's community centre building on St James Road and bounded by the quarry face.

### **Detailed Proposals**

The proposal seeks permission for the construction of 2 semi-detached dwelling houses with an associated parking area.

To facilitate the proposal, engineering operations to the cliff face are proposed. A 4m section of the cliff face will be extended back by 1m to allow for the proposed development.

### **Summary Of Consultation Responses**

*Community Safety Contamination:* The information that has been provided is fairly limited for the proposed location. I am aware of the sites previous use as a quarry and timber warehouse and saw mill. There is also an historical lime kiln at the rear of the development site. From the information provided it appears that the site consists of made ground from the previous development. I believe it is also their intention to have private gardens at the rear of the houses. No information has been provided as to how these gardens will be constructed, for example will they be importing soil. I have concerns that this area has not been sampled and has the potential to be contaminated. I do not object to the development however I do not feel that sufficient information has been provided, to either assure me that the area is not contaminated or to how they will deal with any potential contamination to prevent harm to any future occupants of the dwellings. Due to the proposed rear gardens further sampling of the proposed site is needed to ascertain the extent of any contamination and whether remediation is required to break any potential pathway. I would therefore like to suggest a condition relating to contaminated land be attached to the permission, if you are minded to grant the application.

*Community Safety Amenity:* No objection.

*Natural Environment Services:* No response.

*Wales and West Utilities:* Wales & West Utilities has pipes in the area. Our apparatus may be affected and at risk during construction works. Should the planning application be approved then we require the promoter of these works to contact us directly to discuss our requirements in detail before any works commence on site. Should diversion works be required these will be fully chargeable.

*Engineering:* No response.

*Highways:* No objection.

*Drainage:* Within the submitted flood risk assessment the developer has identified that surface water drainage from this development will discharge via soakaways. However as previously identified the ground conditions at this location are unsuitable for infiltration drainage. As a result the submitted drainage design is for the surface water to discharge at a controlled rate to the combined sewer system. The controlled discharge rate used in the submitted hydraulic design is 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area. The site layout used within the hydraulic calculations is not the latest layout and therefore the impermeable area used in the design of the attenuation tank is incorrect. The impermeable area used in the design only assumes two parking bays at the front of the new properties with lawns to the side whereas the latest layout drawing (Number 457-02C) identifies four parking bays and hard paving to the front of the properties. The hydraulic design must be undertaken using the latest layout for the development in order that the impermeable area used in the design is correct. The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 30% for climate change.

### **Summary Of Representations**

Publication type: Neighbour notification letters/Site notice

11 representations have been received. 1 neutral representation and 10 objections. Issues raised:

- Parking
- Highways safety
- Privacy and overlooking
- Impact on wildlife
- Contamination
- Health implications
- Previous development
- Overdevelopment
- Outlook
- Property values
- Aspect
- Size and scale
- Topography
- Unnecessary impact on environment
- Height
- Overshadowing and impacts on light
- No community engagement

- S106 agreement on previous application not complied with
- Access
- Civil issues of damage to neighbouring properties
- Impact on lime Kiln
- Design
- Geotechnical concerns
- Impact on badgers

A further 14 day consultation period for the application will be undertaken. Any representations received before the date of the Development Management Committee meeting will be reported verbally at that meeting and the recommendation will be subject to no additional issues being raised by any comments received.

### **Relevant Planning History**

Extensive site history, most relevant:

P/2017/0973	2no. New Dwellings. Refused 14/11/17
P/2017/0559	2no. New Dwellings. Withdrawn.
P/2016/1102	Details of remedial works to stabilise quarry face comprising anchor installations and mesh coverage further to July 2014 Geotechnical Report approved pursuant to P/2014/1231. Approved 01/12/16
P/2015/1225	Conversion of loft space and part enclosure of roof terrace to form 4no. additional apartments, two with access to open roof terrace. Alterations to external elevations. Increase in car parking provision from 20 to 22 spaces. Permission with legal agreement 01/09/16
P/2014/1231	Redevelopment of former builders' store to form 24 flats with 20 car parking spaces, and construction of office building: Amended scheme including increasing height of flat building by 1m, deletion of roof garden, adjustment of landscape proposals, reduction in size of, and position of office building with increased car parking levels to serve the office building. Permission with legal agreement 30/06/16

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

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

1. Principle of development
2. Impact on the character and appearance of the streetscene
3. Impact upon the amenity of neighbouring properties
4. Quality of residential accommodation
5. Drainage
6. Transport Issues
7. Ecology
8. Cliff stability
9. Contamination

### **1. Principle of development -**

In respect of the principle of the construction of two dwellings in the plot, the principle of residential development in this location is considered to be acceptable. The site is located within an established residential area and would be considered a sustainable location for such development being in relatively close proximity to services and public transport routes.

### **2. Impact on the character and appearance of the streetscene -**

The site is tightly constrained by its shape, size and location in relation other neighbouring buildings and the cliff face. There is a distinct local character and pattern of development in the area of terraced residential properties whilst the redevelopment of the former Jewson site into Limestone Court formed a development of similar proportions to the existing building on the site.

The proposal seeks to form two semi-detached 2 bedroom properties set over 2 floors. The design includes traditional rendered walls with pitched roofs. Rear garden areas are provided and two car parking space per dwelling would be created in front of the properties.

The proposed dwellings will utilise the majority of the width of the plot with a footprint of 8.6m x 10.8m and a total height of 8.05m. The previous application for the proposal, under reference P/2017/0973 was refused with concerns raised about the size and scale of the proposal which was considered to result in an overdeveloped appearance. The height of the proposed dwellings has been reduced with a new ridge height datum level of 61.650. This is in comparison to the ridge height datum levels of the terraced properties on St James Road of 61.670. With the reduction in height to assimilate with the existing terrace properties and the removal of the use of a third floor within the roof space, the proposal is considered to fit comfortably within the streetscene, reflecting the existing character and appearance and not appearing overly dominant. Although the proposal utilises the majority of the width of the plot, as the plots location is set back from the streetscene, the massing is considered to be appropriate with the changes made to the height and the use of a simple roof form. The size, scale and design of the two dwellings is therefore considered to be acceptable for the location

of the plot within the context of the streetscene and the neighbouring properties.

As such, the proposal would comply with Policy DE1 of the Torbay Local Plan 2012-2030.

### **3. Quality of residential accommodation -**

Policy DE3 of the Torbay Local Plan 2012 - 2030 which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55m<sup>2</sup> for new houses. The proposal includes outside amenity spaces above the required standard which is facilitated by the removal of a section of the cliff.

Internal floor standards are set out from the DCLG technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 70m<sup>2</sup> is required for a 2 bedroom 2 storey dwelling. The proposed floor areas of both proposed dwellings exceed this minimum standard and are therefore acceptable in terms of size.

There is however a concern with the light levels which will be achieved within the windows on the North West and South East elevations of the proposed properties due to the proximity to the cliff face and the proximity of Limestone Court. Sun shadow surveys have been submitted however analysis of the surveys has not been submitted thereby not confirming if the proposed dwellings would be served by adequate light levels. The agent has advised that further sun shadow surveys of the autumn and spring will be submitted alongside a statement in support of the application. Members will be verbally updated on this issue at Committee.

As such, the proposal would comply with Policy DE3 of the Torbay Local Plan 2012-2030 providing the light levels are considered to be sufficient.

### **4. Amenity impact -**

In terms of impact on the neighbouring properties, the proposal does not include windows on the South West side elevation and is sited to sit behind the single-storey children's community centre building on St James Road. As the built form is due north of the terraced properties of 1-9 St James Road and does not sit directly behind the gardens of these terraced properties the proposal is not considered to result in a significant detriment to the amenity of these properties by way of overbearing impact, loss of light or reduced privacy. The proposal is also considered to have an acceptable relationship with Limestone Court. The proposal will result in a separation distance of approximately 18.3m between the existing windows on Limestone Court and the first floor windows on the proposed dwellings. In this context of a built up urban area with somewhat high densities the

separation distance is considered to be acceptable and without detriment to neighbour amenity.

As such, the proposal would comply with Policy DE3 of the Torbay Local Plan 2012-2030.

### **5. Drainage -**

The applicant has indicated that surface water from this development would be discharged to a soakaway, however as previously identified the ground conditions at this location are unsuitable for infiltration drainage.

The Council's Drainage Engineer has confirmed that the submitted drainage design is for the surface water to discharge at a controlled rate to the combined sewer system. The site layout used within the hydraulic calculations is not the latest layout and therefore the impermeable area used in the design of the attenuation tank is incorrect. The impermeable area used in the design only assumes two parking bays at the front of the new properties with lawns to the side whereas the latest layout drawing identifies four parking bays and hard paving to the front of the properties. The hydraulic design must be undertaken using the latest layout for the development in order that the impermeable area used in the design is correct. The applicant must demonstrate that his surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to his development for the critical 1 in 100 year storm event plus 30% for climate change.

The applicant must demonstrate that the surface water drainage design will not result in a risk of flooding to properties on the site or an increased risk of flooding to properties and land adjacent to the site for the critical 1 in 100 year storm event plus 30% for climate change. A condition is therefore recommended requiring details of how surface water will be dealt with. With the addition of a condition the proposal is considered to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

### **6. Transport issues -**

Policy TA3 of the Torbay Local Plan states that new dwellings should be served by two car parking spaces. In this instance, as there is significant pressure on off-road parking in the area, primarily as there are no parking restrictions on the road, the area consists of high density terraced housing and a local school, two parking spaces per dwelling must be provided. The proposed new dwellings are served by two off street parking provision. The East most space is located within the current cliff face, which will be facilitated by excavation works to the cliff face.

The car parking spaces sit in front of the properties which will be accessed through the Limestone Court parking area which will be within the blue line on the OS. The proposed parking areas will not impact on the existing parking arrangements serving Limestone Court. The properties can be accessed by a central path when



cars are parked thereby creating a suitable arrangement.

A condition will be recommended to ensure the parking spaces serve the proposed dwellings and are retained for parking purposes.

The proposal is therefore considered to accord with Policy TA3 of the Torbay Local Plan 2012-2030.

## **7. Ecology -**

The application has been accompanied by a preliminary ecological assessment. The written assessment concluded that:

- 1) The site is not considered suitable for roosting bats and no further surveys are required.
- 2) House sparrows, blackbirds and a family of great tits were seen and heard in the ivy and scrub at the southern end of the site. The vegetation on and adjacent to the lime kiln is suitable nesting habitat for all of these bird species.
- 3) The footprint of the development is unfavourable for any other protected species.
- 4). Consideration needs to be given to the time works to ensure they are outside of bird nesting season.
- 5) Pro-active provision of nest boxes for species such as swifts and house martins should be provided.

Consultation from the Council's ecological consultant for the previous application; P/2017/0973 noted that suitable opportunities during the construction process should be taken in relation to biodiversity. These should include the provision of integrated habitat by design for swifts (*Apus apus*), in the form of four nesting bricks built within the outer wall brickwork. Post development opportunities should also be undertaken in relation to the installation of four house martin boxes and additional nesting provision should be made available for house sparrow (*Passer domesticus*) terraces, and pied wagtail (*Motacilla alba*) boxes. Post-development opportunities should be taken with any landscaping to further enhance the biodiversity relative to that currently presented on site. Incorporating native tree and shrub species into the landscape design will benefit biodiversity. There are concerns from residents that badgers may be using the site. It would seem unlikely that a badger sett is located directly within the curtilage of the site (see ecological assessment report undertaken by George Bemment Associates, 2017). However, a badger sett may be located within the vicinity of the development. Therefore, we also recommend that a badger survey is undertaken.

An updated report which covers issues of badgers has been submitted in support

of this application. In terms of its impact on bats, nesting birds and badgers, the proposal is considered to be acceptable. A condition is recommended to ensure clearance works take place between August to the end of February in line with the recommendations and that nest boxes for swifts and house martins is provided.

### **8. Cliff stability -**

The proposal includes a geotechnical statement which provided details of the works required to the cliff. The statement notes that the existing exposed 4m> rock face could be extended back north from its present east west alignment by 1m without causing any instability factors within either the recently repaired cliff areas above within the rock 'knoll' sections or, the adjacent anchored and meshed rock faces. It may be a requirement that any newly excavated rock faces could contain zones that may require some limited stabilisation works to be completed prior to any ground construction works being commenced. All extraction works by 'rock hammer pecking' processes must be supervised on a daily basis to check on geological stability thresholds and any discovered anomalies. Following the completion of these proposed excavations, the newly cut cliff face will also be subject to primary HSE checks, to establish that the sections will not pose any form of danger from rock detachments to future domestic occupancy situations.

A consultation was requested from the Council's engineering department to confirm if the proposed works are considered to be reasonable. At the time of writing the report no response had been received. Members will be verbally updated on this issue at Committee.

### **9. Contamination -**

A geotechnical and contamination assessment report has been submitted in support of the application. This document concluded that neither the adjacent quarry faces or contamination factors constitute any risk scenarios to the proposed development.

The Council's Senior Environmental Protection Officer has confirmed that from the information provided it appears that the site consists of made ground from the previous development. It is understood that it is intention to have private gardens at the rear of the houses. No information has been provided as to how these gardens will be constructed. There are concerns that this area has not been sampled and has the potential to be contaminated. There is no objection to the development however there is not sufficient information to confirm that the area is not contaminated or to how they will deal with any potential contamination to prevent harm to any future occupants of the dwellings. Due to the proposed rear gardens, further sampling of the proposed site is needed to ascertain the extent of any contamination and whether remediation is required to break any potential pathway. A pre-commencement condition relating to contaminated land is therefore recommended.

With the addition of a pre-commencement condition the proposal is considered to

accord with Policy ER4 of the Torbay Local Plan 2012-2030.

### **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.

### **CIL and Affordable Housing -**

Affordable Housing:

Affordable housing provision/contribution is not required from this development in accordance with Policy H2 of the Torbay Local Plan 2012-2030.

### **CIL:**

The application is for residential development in zone 1 where the Community Infrastructure Levy (CIL) is £0 per square metre of additional gross internal floor area created for development of 1-3 dwellings. The proposal is therefore not CIL liable.

### **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.

Date: 22/03/18

### **Conclusions**

The principle of new residential development is accepted and the proposal is considered to be of a suitable size, scale, massing and visual appearance for the plot within the context of the site and the surrounding streetscene. The proposal will provide adequate internal and external amenity space however there is a potential concern with the level of light afforded to the proposed dwellings due to

the proximity to the cliff face and the proximity of Limestone Court. Further information will be submitted in support of this issue. The proposal is not considered to impact on neighbour amenity. The proposal is considered to be acceptable in terms of highways impact and ecology whilst issues surrounding drainage and contamination can be agreed by way of a planning condition. The proposal includes a geotechnical statement which provided details of the works required to the cliff. A consultation is awaited in respect of this issue. The two proposed dwellings are therefore considered to be appropriate for planning approval.

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

01. Construction management plan
02. Materials
03. Drainage
04. No Permitted development
05. Ecology - provision of nest boxes and timing of vegetation clearance
06. Finished floor levels
07. Geology/ cliff stability
08. Parking provision prior to occupation
09. Contamination
10. Bin and cycle storage details
11. Landscape plan to include boundary treatment

### **Informative(s)**

01. 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.

### **Relevant Policies**

- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management
- ER3 - Contamination
- ER4 - Ground Stability 1
- NC1LFS - Biodiversity and Geodiversity
- TA2 - Development access
- TA3 - Parking requirements