

Application Number

P/2018/0348

Site AddressThe Anchorage
Headland Road
Torquay
Devon
TQ2 6RD**Case Officer**

Mr Robert Pierce

Ward

Cockington With Chelston

Description

Replacement dwelling (variation of condition P1 of original planning permission P/2015/0986) - To raise roof height, extend area enclosed by glazed balustrade above rear garden level accommodation and installation of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation.

Executive Summary/Key Outcomes

Planning permission was granted in 2015 for the demolition of a traditionally designed two storey dwelling and its replacement with a large contemporary styled detached, three storey dwelling and attached double garage (with cinema room over).

In September 2017 an Enforcement Complaint was received that the new dwelling was being built higher than the approved plans indicated.

The Enforcement Team arranged for measurements to be taken and it was confirmed that the two main top floor roof elements had been raised by approximately 52.8cm and 47cm together with other lesser discrepancies at the lower roof levels.

This retrospective planning application is intended to vary the permission previously given and shows "as built" drawings. These drawings also include the installation of 4 air conditioning units and a stainless steel flue on the SW elevation to the rear of the cinema room, along with a gas flue to the rear of the garage. The drawings also indicate that the approved area enclosed by glazed balustrading has been extended out to include the full perimeter of the roof of the rear single storey garden level accommodation.

Several representations have been received from neighbours and the application was the subject of a Site Review Meeting on Tuesday 11th September 2018 (Councillor Amil in attendance) when it was agreed with Officers that the application should be considered by the Development Management Committee.

Recommendation

Approval (Conditions at the end of the Report)

Site Details

The site comprises a large contemporary dwelling which has almost been completed and is well set back from the road frontage on the south side of Headland Road. This house has replaced a large conventional detached dwelling, the original plot of which has been sub-divided. It shares a communal driveway with a new dwelling (allowed at appeal) which was built about 9 years ago. The property has a very large rear garden which is level and extends some 26 metres to the edge of "Broken Cliff" and the sea below. The rear garden to the property (together with the adjoining properties) is located within the Coastal Change Management Area. The side boundaries to the rear garden are screened by hedging and shrubs and is open to the cliff edge. There are slight variations in the heights of the properties along the seaward side of Headland Road but differences are not significant as the plots are all reasonably level.

Detailed Proposals

This Section 73 application seeks to vary the plans approved as part of planning permission P/2015/0986. There are three elements to this retrospective application, as follows:

- a) The raising of the height of the completed dwelling from that indicated on the approved plans. The applicant has stated that the increases in height are to accommodate additional insulation for energy efficiency purposes.
- b) The addition of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation.
- c) The increase in the area of flat roof enclosed by the glazed balustrading above the rear garden level accommodation.

Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)

- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Community Safety:

Prior to beneficial use, the applicant shall submit details of all plant and equipment installed, including noise levels and predicted noise levels at the nearest noise sensitive accommodation for approval by the local Environmental Health Department.

Summary Of Representations

Six Letters of objection were received from the immediate neighbours. The main issues raised as follows:

- Overbearing impact
- Erosion of privacy
- Shading of the neighbours solar panels
- Loss of light
- Decorative parapets could be removed without affecting the internal structure
- Visual impact of Air Conditioning units
- Use of first floor balcony/terrace

Relevant Planning History

2017/0260/EN Enforcement Complaint in respect of height of the dwelling under construction.

P/2015/0986 Replacement Dwelling Approved 7.03.2016

DE/2015/0217 - Pre Application Enquiry - Redevelopment with replacement dwelling (similar to the current proposal). Positive response at Peer Group Review 9th June 2015

P/2010/1288 - Replacement dwelling at "Overcliffe", Headland Road - Approved 6.01.2011

P/2010/1393 - Replacement dwelling at "South Cliff", Headland Road - Approved 8.2.2011

Key Issues/Material Considerations:

Principle of Development:

This is a retrospective proposal for works that have increased the height of the approved dwelling together with the installation of 4 air conditioning units, a gas flue and the repositioning of an area of glazed balustrading. The principle of residential development at the site is already established and the proposal is therefore considered to be acceptable in principle.

Impact on character and appearance of the area:

Policy DE1 (Design) of the Torbay Local Plan requires development to be well-designed and should acknowledge local character and relate to the surrounding built environment in terms of scale, height and massing.

Given that planning permission has already been granted and implemented for a new dwelling, this report is concerned with the effect of the changes now being proposed. The dwelling is relatively large and it is visible from distant views along Torbay Road and across from Livermead. From such distant views the modest increase in height is not obviously discernible from what was originally approved. Notwithstanding the changes being proposed, it is considered that the proposed dwelling sits quite comfortably within the plot and does not have any unacceptable impacts on the character and appearance of the general area.

Given the siting, scale, and design of the proposed changes, the proposal is considered to be in accordance with Policy DE1 of the Torbay Local Plan.

Impact on neighbour amenity:

Policy DE3 (Development Amenity) of the Torbay Local Plan seeks to achieve development which does not unduly impact upon neighbour amenity. Development should be assessed using such criteria such as impact of light, noise and whether the scale is overbearing.

Representations regarding the impact of the increase in height of the approved dwelling have been considered. The roof of the cinema has been raised by around 22.3cm and the western side of the flat roof to the first floor has been raised by approximately 18.7cm. Both of these elements are set back off the boundary with the adjoining property "Yellow Tubs" by 3.5m and 1.5m respectively. Whilst clearly higher than approved, it is considered that the relatively small increase in height of these elements has not resulted in any adverse overbearing impacts on the neighbouring properties. The height of the main central atrium feature has been raised by 52.8cm and the roof of the remaining top floor accommodation to the side and rear has been raised by 47.2cm. The top floor of the dwelling has a smaller footprint than the lower floor levels and is set further away from the properties either side. It is not considered that the increase in height of the top floor has any adverse impact on these properties.

The property opposite the new dwelling, known as "Portafino", is set down at a lower level in what was part of the garden to the original property. The central "curved" atrium feature is set back from "Portafino" by at least 15 metres. The approved height of the roof for this element was 10.5 metres and the built height is now 52.8cm higher. Whilst there is intervisibility between both properties, on balance, it is not considered that an increase in height of approximately 5% has resulted in an unacceptable overbearing impact or loss of natural daylight. The remaining area of the top floor roof has been raised by 47.2cm and is set back a further 4 metres. It is considered that on balance the increased roof heights do not

have any adverse impact on the occupiers of "Portafino". The proposed changes have not resulted in any additional impacts on the privacy of those occupying this neighbouring property.

The 4 air conditioning units have been mounted on the flat roof of the garage and area attached to the rear of the wall of the cinema room on the western elevation. They are partially screened by a parapet wall. A stainless steel boiler flue has also been mounted to the rear of the garage wall. The air conditioning units and the flue face the side boundary to the property next door to "Yellow Tubs". The party boundary is defined by a 2 metre high rendered wall. From the garden level of "Yellow Tubs", the flue is visible above the boundary wall but the air conditioning units are almost fully screened by the parapet wall. They are however visible when looking down from "Yellow Tubs" itself which stands at a higher level. The air conditioning units and flue are of a domestic scale and whilst they are positioned in close proximity to the party Boundary with "Yellow Tubs" they are not considered to be visually intrusive. Subject to acceptable noise levels, to be achieved by way of condition, then the 4 air conditioning units and flue are considered to be acceptable and do not have any adverse impact on neighbour amenity.

The area of flat roof over the rear garden level accommodation enclosed by glazed balustrade has been extended out to enclose the whole of the roof area. The approved plans indicate the balustrading was to be set back by 2 metres from the rear edge of the roof with an area of roof garden beyond. A condition was attached stating that the roof garden area should not be used for sitting out purposes and should only be accessed for maintenance purposes.

It is not considered this has resulted in any adverse visual impact and the agent has confirmed that this was done to afford safe maintenance of the roof garden. The main concern from the neighbours is that this could result in the whole area roof being used for a sitting out/amenity area. In this respect the same condition will still apply which prevents the roof garden from being used as a sitting out area. Extending the area enclosed by the glazed balustrade therefore does not have any adverse impact on the amenity of the neighbours.

In terms of the proposal's impacts on neighbours, the increase in height of the approved dwelling, the installation of the 4 Air Conditioning Units and the gas flue together with the extension of the glazed balustrading meets the criteria of Policy DE3 of the Torbay Local Plan.

Loss of direct sunlight:

It is noted that the neighbour opposite at "Portofino" is concerned that the increased height interferes with solar rays beaming onto Thermal Solar Panels that have been installed on that property. It is considered that the proposed changes would not result in sufficient change, over and above what was previously approved, to result in unacceptable effects.

Impact on the Coastal Change Management:

Policy C3 (Coastal Change Management) of the Torbay Local Plan states that one of the key considerations in assessing a proposal in the Coastal Change Management Area is whether it will adversely affect the natural environment and whether it will have any impact on landscape and views.

The dwelling is well set back from the edge of the cliff to the rear and from a distant view the increase in height will not be easily discerned and therefore it is not considered that the development will detract from the unspoilt character and appearance of the coastal area.

The increase in height is considered to meet with the criteria of Policy C3

Other Considerations:

This assessment has been undertaken having regard to the provisions of the emerging Torquay Neighbourhood Plan.

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.

Local Finance Considerations

S106:

Not applicable.

CIL:

Not applicable.

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.

Proactive Working

In accordance with the National Planning Policy Framework the Council has worked in a positive and pro-active way but has concluded that the application is unacceptable for planning approval.

Conclusions

The increase in height of the approved dwelling, together with the air conditioning units, gas flue and revised layout of the glass balustrading are considered to be acceptable and without unacceptable detriment to the amenities of neighbouring occupiers or the character or appearance of the locality. The proposal is considered acceptable, having regard to the Local Plan and all other material considerations.

Condition(s)/Reason(s)

01. The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 1 of planning permission P/2015/0986/PA.

Reason: In the interests of assessing the impact of the proposal on the Coastal Change Management Area and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012-2030.

02. The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 2 of planning permission P/2015/0986/PA.

Reason: To mitigate the potential risks associated with development in close proximity to a cliff and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012 - 2030.

03. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1, Classes A -F shall be carried out without the prior consent of the Local Planning Authority.

Reason: The site is in close proximity to neighbouring properties and within the Coastal Protection Zone and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and to accord with Policies DE1, DE3 and C3 of the Torbay Local Plan 2012 - 2030.

04. Within 8 weeks of the date of this planning permission, the applicant shall submit details of all external plant and equipment installed, including noise levels and predicted noise levels at the nearest noise sensitive

accommodation, to the Local Planning Authority for its approval in writing. Any external plant or equipment shall be installed in accordance with the approved details, and shall be retained as such.

Reason: In the interests of protecting the residential amenity of the adjoining occupiers and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

05. Privacy screens, measuring 1.8metres in height from the floor level of both ends of the second floor level roof terrace, extending 3.210 metres as indicated on approved drawing "1305.11e", shall be installed prior to first use of the second floor roof terrace hereby approved. The screens shall be obscure glazed to at least Pilkington Level 5 or equivalent. The screens shall then at all times be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that the privacy and general amenity of the neighbouring occupiers is preserved and to accord with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

06. The development shall be carried out in strict accordance with the external materials approved pursuant to condition 6 of planning permission P/2015/0986/PA.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030.

07. The outer area of flat roof above living/breakfast room identified as roof garden on approved drawing no.1305.11e shall not be used for sitting out and shall only be accessed for maintenance purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

08. The development shall be carried out in strict accordance with the Flood Risk Assessment approved under planning permission P/2015/0986/PA, and the Drainage Strategy approved pursuant to condition 4 of planning permission P/2015/0986/PA.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 of the Torbay Local Plan 2012-2030.

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

C3 - Coastal change management

H1 - New housing on identified sites