

**Application Number**

P/2012/0017

**Site Address**1 Birds Haven  
Avenue Road  
Torquay  
Devon  
TQ2 5LS**Case Officer**

Mr Alexis Moran

**Ward**

Cockington With Chelston

**Description**

Formation of 1 dwelling on land adjacent to 1 Birds Haven.

**Executive Summary/Key Outcomes**

The application seeks permission for the addition of a single storey dwelling adjacent to 1 Birds Haven. The site is within the Urban Landscape Protection Area (ULPA) and within an area designated as a wildlife corridor there are also a number of protected trees in the area.

The Arboricultural Officer is happy that the proposal will not have a significant impact on the trees and therefore on the ULPA. The proposal largely overcomes the reasons for refusal and the Inspectors issues with the previously refused application for a property on the site (P/2001/0246).

Due to the size and siting of the proposed dwelling, which is single storey and with a sedum roof, it is not considered that it would be highly visible from the wider area or have a significant impact on the privacy and amenity of neighbouring properties.

Bearing these points in mind, it is considered that the proposal is acceptable for the granting of a conditional approval.

**Recommendation**

Approval.

**Site Details**

The site is adjacent to 1 Birds Haven which forms part of a group of 12 flats which are set out as a courtyard within the grounds of Rowcroft Hospice. This is located off a private road accessed from Avenue Road. The site is within the Urban Landscape Protection Area (ULPA) and a Wildlife Corridor.

**Detailed Proposals**

The application seeks permission for the addition of a single dwelling within a site adjacent to 1 Birds Haven.

The proposed dwelling is to be single storey with the majority of the building being timber clad with a sedum roof. The tower aspect of the proposal is to be stone based with timber cladding and a zinc roof.

The site is to be accessed off of the existing private driveway rather than the car park so as to not increase the number of vehicle movements to and from the car park.

### **Summary Of Consultation Responses**

*Arboricultural Officer:* Appraisal - The application seeks to gain permission for the construction of a single dwelling sited within the area of open ground formerly known as the paddock to the south of No's 1 to 4 Birds Haven.

The following constraints apply to the site.

- Tree preservation Order 1963.01 A4 Rainbow Estate
- Urban Landscape Protection Area
- Wildlife corridor

To support the application, a detailed tree survey, Arboricultural Impact Assessment, Outline Method Statement and Tree Protection Plan have been prepared. The report seeks to address in the main comments made by the appeal inspector in 2002 when a similar application was dismissed. The main reasons for the dismissal was the potential for request to fell trees due to psychological pressure that may be felt by new occupants with a resultant degradation to the ULPA that would ensue. Torbay Council agreed with the appeals reasons but with an additional reason that the layout proposed would create an incompatible relationship between the trees and any new owners.

Tree work application AT/2008/0115 granted consent for the removal of 8 trees with replanting conditions attached. During the site visit, it was noted that no trees have been planted to satisfy this condition. If planted, the replacement trees would have offered a further level of constraint upon the design layout, which has not been included within the work to date.

Detailed study of the arboricultural work submitted, in conjunction with the design of the building largely answers the reasons of the appeals inspector to an extent that it is considered that scope now exists for the construction of a suitable single dwelling to this site.

Potential will exist during any future occupation for repeated inappropriate requests to fell trees. Ordinarily this would lend weight towards a recommendation to refuse on Arboricultural merit. However in this instance the quality of the tree stock left combined with the present detailed tree inspection which reinforces this would allow any tree work application under the TPO to be

refused, with a strong likelihood that any appeal against a decision for refusal made by the LA would be dismissed.

With regard to the need to satisfy the replanting condition, the applicant will need to consider the effects that further tree planting will have upon the dwelling by way of study of light levels or the increased use of light tunnels or their like.

*Recommendation*

That the scheme be suitable for approval on arboricultural merit if the following points can be addressed by way of pre-commencement conditions as follows:

1. That the arboricultural report in its entirety be conditioned for use throughout the development if approved with particular attention being drawn for the need for arboricultural supervision as per its recommendation.
2. Detailed landscaping plan to be submitted and approved that integrates the non planted trees ref. AT/2008/0115.

*Informative*

1. This site allows space for the construction of one dwelling only, with any deviation from this likely to have a negative effect upon the ULPA and the TPO with a recommendation of refusal on arboricultural merit highly likely to follow.
2. The detailed landscaping plan can contain within its tree planting schedule a deviation from the original conditions set within AT/2008/0115 which were made by the LA in absence of any input from the applicant at decision stage. However the intention of the condition was to commence succession tree planting of landscape scale trees to the mainly single aged trees stock present on site, which should inform the size and species selection.

*Highways Officer:* Highways have no objections to this application, however it should be noted that the public highway doesn't start until the junction with Avenue Road.

*Strategic Transportation:* Request that the SPD is applied to provide a contribution towards improvement of the walking and cycling routes surrounding the site which need to be improved to facilitate good, safe sustainable access to this site from the town centre and harbour. The site is close to proposed local and national cycle routes linking the outskirts of the town via the hospital and Torre to the town centre and beach front.

Council Policy states the need to discourage car trips and promote alternatives for local trips, and public transport is already well catered for.

One cycle parking space per dwelling should be available. If within a garage, the

bike should be accessible even with a car inside. If a new separate store such as a shed is proposed, it should have a secure lock and not be connected to a bin / refuse area.

### **Summary Of Representations**

A total of 8 representations were received in relation to the application 3 supported the application, 3 made comments on the scheme and there were 2 objections the scheme.

The letters of support noted that the scheme was likely to enhance the character and appearance of the area.

The letters of objection raised issues with the potential increase in traffic and the impact on the trees in the area.

All of the letters have been re-produced at Page T.200.

### **Relevant Planning History**

P/2001/0246	Erection Of Single Dwelling Unit - Birds Haven. Refused and subsequent appeal rejected 21.02.2001
P/2000/0924	Erection Of Single Dwelling Unit - Land Adj. 1-4 Birds Haven Land Adj. Refused 22.06.2000

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

The key issues to consider in relation to this application, are the impact it would have on the character and appearance of the ULPA and the amenity and privacy enjoyed by the occupiers of neighbouring properties.

The main consideration in relation to this application is the impact it would have on the character and appearance of the ULPA. In the application which was refused at appeal (P/2001/0246) the Inspectors main issue with the proposal was the impact it would have on the protected trees and the associated effect on the ULPA. The Arboricultural Officer has confirmed that the submitted scheme is acceptable and the proposed Arboricultural Impact Assessment, Outline Method Statement and Tree Protection Plan overcome the Inspectors previous reasons for refusal. This along with the proposed size, siting and suitable design of the proposal are considered to contribute to the scheme not having a significant impact on the ULPA.

It is considered that the proposal due to its size, siting and orientation would not have a significant impact on the privacy and amenity currently enjoyed by the occupiers of neighbouring properties.

Having consideration for the above points it is considered that the proposal is acceptable for conditional planning approval.

**Environmental Enhancement -**

The Arboricultural Officer has confirmed that the proposal has confirmed that the proposed works are considered to be acceptable with the addition of conditions.

**Accessibility -**

Highways have not raised an objection to the application and in any case the site is accessed via a private road.

**S106/CIL -**

The application has been assessed against the Council's policy in respect of planning contributions. A contribution will be required in this case, calculated as follows:

On the basis that the new accommodation will comprise of a residential unit of between 95-119sq metres or more of gross internal floor area:

Contribution for dwelling:

Waste Management	£ 50.00
Sustainable Transport	£2,710.00
Lifelong Learning	£ 410.00
Greenspace and Recreation	£2,370.00

**TOTAL - FOR DEVELOPMENT                    £5,540.00**

**Conclusions**

The proposed dwelling is considered to be appropriate for conditional planning approval, having regard to all national and local planning policies and all other relevant material considerations

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

01. Prior to the commencement of any development a detailed landscaping plan shall be submitted to and approved by the Local Planning Authority, this should integrate the non planted trees with reference to the previous application AT/2008/0115.

Reason: In the interests of the amenities of the area and in accordance with policies L5 of the saved adopted Torbay Local Plan 1995-2011.

02. The recommendations within the tree report, hereby approved (received 10/01/2012) ref 03250 AIA 7.9.10, shall be implemented in full, particularly the

need for arboricultural supervision, and all new planting shall be carried out in the first planting and seeding season following the completion of the development whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with policy I5 of the saved adopted Torbay Local Plan 1995-2011.

03. The building shall not be occupied until the vehicular access has been constructed in accordance with the plans hereby approved.

Reason: In the interests of highway safety and in accordance with policy T25 of the saved adopted Torbay Local Plan 1995-2011

04. Prior to the occupation of the dwelling hereby approved, suitable bin and cycle storage facilities shall be provided.

Reason: In the interests of the amenity of the area and in order to comply with policies BES & BE1 of the saved adopted Torbay Local Plan 1995-2011.

### **Informative(s)**

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003.

The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

BES, BE1, L5, T25, CF6 & CF7

02. This site allows space for the construction of one dwelling only, with any deviation from this likely to have a negative effect upon the ULPA and the TPO with a recommendation of refusal on arboricultural merit highly likely to follow.

03. The detailed landscaping plan can contain within its tree planting schedule a deviation from the original conditions set within AT/2008/0115 which were made by the LA in absence of any input from the applicant at decision stage. However the intention of the condition was to commence succession tree planting of landscape scale trees to the mainly single aged trees stock present on site, which should inform the size and species selection.

04. Condition one attached is prior to commencement going to the heart of the permission; therefore details must be submitted to and approved prior to the commencement of any works on site.

**Relevant Policies**

- BES Built environment strategy
- BE1 Design of new development
- L5 Urban Landscape Protection Area
- T25 Car parking in new development
- CF6 Community infrastructure contributions
- CF7 Educational contributions