

Application Number

P/2018/1104

Site AddressShop Unit
159 Winner Street
Paignton
TQ3 3BP**Case Officer**

Miss Emily Elliott

Ward

Roundham With Hyde

Executive Summary/Key Outcomes

The application proposes a change of use on the ground floor of 159 Winner Street, Paignton, from a retail unit to a one-bedroom apartment.

The proposal is considered to be contrary to Policies DE1 (Design), DE3 (Development Amenity) and SS10 (Conservation and the Historic Environment), of the adopted Torbay Local Plan 2012-2030 and is therefore recommended for refusal.

Recommendation

Refusal.

Reason for Referral to Development Management Committee

As the proposed development is on land owned by a Councillor, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

Statutory Determination Period

14th January 2019.

Site Details

The application site comprises a mid-terrace three-storey building, located at 159 Winner Street, Paignton. The building includes a mid-twentieth century shopfront, which provides a highly visible focal point at Winner Street's junction with Church Street in Paignton.

The site is located within the designated Old Paignton Conservation Area and is a Grade II Listed Building. There are a number of Grade II Listed Buildings within the immediate vicinity of the site. The site is not located within Paignton Town Centre, however it is in close proximity.

Detailed Proposals

The application proposes a change of use on the ground floor of 159 Winner Street, Paignton, from a retail unit to a one-bedroom residential apartment. The proposal includes a bedroom, a bathroom and a living area which includes a kitchen. The proposal also includes external alterations to the Grade II Listed Building. It should be noted that the proposed works would also require Listed Building Consent, however this has not been requested by officers due to the unfavourable recommendation.

The external alterations to the proposal include the removal of the shop frontage which served as a former bookshop, to be replaced with a window and a grey composite door set back into a recess within the principal elevation.

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 Paignton 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

Senior Conservation and Design Officer - Objects to the application. This is a listed building (NHLE No. 1208561) in the Old Paignton conservation area, but there is no LB application for this site. The mid-20C shopfront is not unattractive, providing a highly visible focal point at Winner Street's junction with Church Street, and some visual variety to the otherwise plain fronts of this line of 18C listed buildings (all on medieval foundations and perhaps retaining medieval fabric) Nos 159-171. While the conversion is a matter for planning, I would not recommend the removal of the shop front here; the list description states that the interior of 159 has been altered for shop use; though it does not extend to further comment there is no reason to suppose the interior is poor quality. The poor plan of the interior (dwg 18106- AL(4-)01 rev A) gives no indication of what is actually there. As Nos 159-161 are listed together, I note that there is a satellite dish on the façade, but more importantly the ground floor window which is listed as

timber single pane sash has been replaced by a fixed uPVC window. The loss of the shopfront would be detrimental to the listed building, contrary to S 66 of the LBCA Act 1990 where the local planning authority is enjoined to have special regard to the desirability of preserving listed buildings or their settings, including features of special architectural or historic interest.

Drainage Engineer: The development is located in Flood Zone 1, is not in an area susceptible to surface water flooding and relates only to a change of use, I have no objections on drainage grounds to planning permission being granted.

Senior Environmental Health Officer: With reference to the above application the flat seems very small. As such, I do have concerns regarding provision for both the internal and external arrangements for the storage of household waste. Developers and architects often see this as an afterthought, but as a department we receive many complaints regarding the problems associated with the inappropriate storage of waste containers on the highway and the public health issues that they cause. Furthermore, in Torbay we try to encourage the separation and recycling of household waste and without adequate provision for storage it is difficult for householders to sort, store and present their waste for collection. As such I would object to this application in its present form, and would suggest the developer follows the guidance contained in document H6 of the Building Regulations with regards to waste storage capacity.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Thirteen neighbour notification letters were sent to those neighbours which the development could affect. No representations were received.

Relevant Planning History

P/1984/1554: Use As A Café. Withdrawn 21/05/1985.

P/1984/3316: Use As Antiquarian/Bookshop. Approved 14/02/1985.

P/1985/0139: Altns.To Shop Fascia. Approved 07/03/1985.

Key Issues/Material Considerations

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

1. Principle of Development
1. Visual amenity
2. Residential amenity
3. Highways
4. Flood risk
5. Other considerations

1. Principle of Development?

The proposal is for a change of use on the ground floor from a retail unit to a one bedroom apartment. Being located within the built up area, a dwelling is

considered to be in accordance with Policy H1 of the Local Plan, and acceptable is in principle.

1. Visual amenity

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

The proposal seeks to replace the mid-twentieth century shop frontage with a new entrance door and proposed bedroom window, with an infill structure to be finished in white render with a black plinth. It is considered the frontage for the proposed residential apartment would not integrate well with or respect the character of the existing streetscape, contrary to Policy DE1 of the Local Plan.

Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them. The Council's Conservation Officer objects to the removal of the shop frontage. It is considered that the loss of the shopfront would be detrimental to the character of the listed building, contrary to S66 of the LBCA Act 1990 where the local planning authority is enjoined to have special regard to the desirability of preserving listed buildings or their settings, including features of special architectural or historic interest. Listed building consent is required for the works proposed, although no such application has been received.

It is considered that the proposal would result in substantial harm to the character of the listed building, and less than substantial harm to the character of the conservation area. Given the poor standard of accommodation being proposed, it is considered that public benefits outweighing the identified harm have not been demonstrated in this case.

Therefore, the proposal is considered to be contrary to Policies DE1, HE1, and SS10 of the Local Plan, and the guidance contained in the NPPF.

2. Residential amenity

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The proposed one bedroom apartment has an internal floor area of

approximately 22 square metres. It includes a living area with kitchen, a bathroom and a bedroom. Table 23 of the Local Plan sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard. For a one-bedroom apartment, the minimum gross internal floorspace area is 37 square metres where there is a shower instead of a bath in the bathroom. The proposed one bedroom apartment falls significantly below the required minimum gross internal area raising a concern with the quality of accommodation provided. Policy DE3 of the Local Plan also states that apartments should provide 10 square metres of outdoor amenity space, the proposal does not include any outdoor amenity space. The proposal would result in an unacceptable residential environment for the future occupiers contrary to Policy DE3 of the Local Plan.

Furthermore, a concern is raised with regard to the poor internal environment the proposal offers due to lack of outlook and light. The proposed floorplan shows the bedroom as having a window which would front the public footway and the living area including the kitchen will not have a window, only the front door. The living area would have limited outlook and light. The one proposed window for the bedroom would offer limited privacy, due to the building immediately abutting the public footway and not benefitting from a front garden to protect the future occupiers from potential overlooking, noise and disturbance from passers-by.

It is also noted that there appears to be no provision for the storage of refuse and recycling.

It is considered that the proposal would provide a poor standard of accommodation for future occupiers and it is therefore contrary to Policy DE3 of the Local Plan.

3. Highways

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development.

The proposal would not include any parking spaces but is located in relatively close proximity to good public transportation links, central car park, and local amenities. The site is deemed to be in a sustainable location and therefore does not require a parking space.

In terms of its impact on highway safety and amenity, the proposal is considered to be acceptable.

4. Flood risk

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. As the proposed development would not result in an increase in the impermeable area on the site, the proposal is deemed acceptable in terms of its impact on surface water flooding. Given the nature of the proposal, the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

5. Other considerations

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The relevant policy for this application is Policies PNP1(c) Design Principles and PNP11 Old Town. Policy PNP1(c) states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

Policy PNP11 states that subject to other policies of the Neighbourhood Plan, improvements of the area will be supported that better the function, amenity and public enjoyment by design detail that will retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and appearance of the area having regard to Policy PNP1(c). Policy PNP11 goes on to state that where possible historic features such as building lines, window patterns and material should be reinstated. The proposal seeks to remove the shop frontage of the Grade II Listed Building and does not seek to preserve or restore any historic features of the building, the proposal is therefore contrary to Policy PNP11. The proposal is therefore considered to be contrary to the Paignton Neighbourhood Plan.

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

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.

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.

Conclusions

The proposed development is considered unacceptable, having regard to the adopted Torbay Local Plan 2012-2030, and all other material considerations.

Condition(s)/Reason(s)

01. The proposed development would provide a poor quality residential environment by reason of the area of internal living space that would be available to future occupiers, which is below that required by Policy DE3 of the Torbay Local Plan. Moreover, given the lack of windows to the habitable rooms, the proposal would not provide the future occupiers of the apartment with adequate levels of outlook and light. The proposed window for the bedroom would also result in an inadequate level of privacy given its location along the street front. Being located adjacent to the public footway occupants of the proposed dwelling may also suffer from noise and other disturbance, given the positioning of the bedroom window. Moreover, there is an absence of adequate refuse storage. In light of these deficiencies, it is considered that the proposal would result in an inadequate standard of living accommodation, contrary to Policy DE3 of the Torbay Local Plan.

02. The frontage for the proposed residential apartment would not integrate

well with or respect the character of the existing streetscape, and is therefore considered to be detrimental to the character and appearance of the street scene and the Old Paignton Conservation Area. It is considered that the proposal would result in less than substantial harm to this heritage asset, and public benefits that outweigh this harm have not been demonstrated in this case. It is also considered that the proposal would result in substantial harm to the character of the host building, which is a listed building. As such, the proposal is considered to be contrary to Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan and the guidance contained within the National Planning Policy Framework.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

SS10 - Conservation and Historic Environment

ER1 - Flood Risk

TA2 - Development Access

TA3 - Parking Requirements