

**Application Number**

P/2018/1113

**Site Address**MyPLace  
Parkfield  
Colin Road  
Paignton  
TQ3 2NR**Case Officer**

Ben Gilpin

**Ward**

Preston

**Executive Summary/Key Outcomes**

This planning application seeks planning permission for the change of use from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. There would be no increase in impermeable built footprint at the site.

The proposal is considered to be acceptable in this location and without any overriding detriment to the character or appearance of the locality. Consequently, the proposal meets Local Plan policy requirements.

**Recommendation**

Approval.

**Reason for Referral to Development Management Committee**

As the proposed development is on land owned by Torbay Council, and the application has received one objection, the Council's constitution requires that the application be referred to the Development Management Committee for determination.

**Statutory Determination Period**

02.01.2019

**Site Details**

The site is a large purpose-built community building in D2 use.

To the west of the site is an outdoor activity area (including BMX cycle track). To the north is a car park. To the east are residential properties. To the south are

parkland gardens and a building accommodating the Integrated Youth Support Service for Torbay.

The south eastern corner of the building falls within the Polsham Park Conservation Area (CA). Within the red line site area as submitted is a Grade II Listed Building (identified as a garden house to the north of Parkfield). The proposed development does not include works to the Listed Building.

The site is in the settlement boundary and has no other statutory designation constraints.

### **Detailed Proposals**

The application seeks planning permission for the change of use of an existing building from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. The external works would include the installation of a doorway, and fencing with the creation of a dedicated garden area, along with the installation of a new bin store. There would be no increase in impermeable built footprint at the site.

The submission does not detail finishing materials.

### **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**

Torbay Community Safety:

"I would confirm that I have no objections to this being approved."

Torbay Drainage:

“As the development is located in Flood Zone 1 and the development is a change of use to an existing building that will result in no increased impermeable area, I have no objections on drainage grounds to planning permission being granted.”

Torbay Highways

‘No comments received’

Historic England

‘No comments received’

### **Summary Of Representations**

1 x letter of objection received citing:

- Drainage;
- Impact on local area;
- Noise;
- Privacy / overlooking;
- Traffic / Access

### **Relevant Planning History**

P/2009/0983 – Demolish nursery buildings. Replace with new build 'My Place' building containing indoor sports hall, associated changing and toilet facilities, cafe/internet areas, recording and sensory rooms. Outdoor facilities to include BMX and skate board tracks, on site car parking and landscaping. Renovation and change of use to Parkfield House from Council offices to 30 bed youth hostel for new 'My Place' building, and landscaping to existing grounds. APPROVED 26.11.2009

P/2017/0121 – Relocation of Torbay School to MyPlace, Parkfield. Alterations to MyPlace, Parkfield and construction of new single storey extensions to rear for Torbay School. REFUSED 12.05.2017

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

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

1. Principle of Development
1. Visual Impact / Impact on Nearby Heritage Assets
3. Development Amenity
4. Flood Risk

## 5. Other Considerations (Ecology / Highways)

### 1. Principle of Development

The application seeks planning permission for the change of use from Youth Centre (D2) to mixed use Youth Centre (D2) and education day centre (D1) & associated external works. There are no Local Plan policies indicating that the proposal would not be acceptable in principle.

### 2. Visual Impact / Impact on Nearby Heritage Assets

The National Planning Policy Framework (NPPF) states that that design should underpin decision making is to secure high quality design. In addition, the NPPF also 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. Policy SS10 of the Torbay Local Plan seeks to ensure developments would maintain the character of a conservation area, and where possible enhance that character.

The objection received suggests the development would result in a change in character. The development seeks a change of use, with only small physical changes (no increase in the built footprint).

The proposal would result in the material change of use of an existing building and would include some very modest external works that would not significantly alter the character or appearance of the site. Given its siting, scale, and design, and that the site is within the settlement boundary and viewed in its urban context, it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality.

In relation to the setting of the listed building and character of the conservation area, it is considered that the proposed changes would not result in any harm given the existing situation.

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

### 3. Development Amenity

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

The objection received suggests the change of use would result in a loss of privacy and the generation of noise. The development would only change the use

and would not have a built footprint or windows nearer the complainant's property (11B Marine Drive), so negating perceived loss of privacy. The part of the site to be used as a dedicated garden area is already an outdoor space serving the existing youth centre use.

The proposal, in terms of the material external alterations and the change to a mixed use, would not result in overlooking or a loss of privacy to neighbours, principally because of the contained nature of the development.

The use of the site for educational purposes would by its nature be constrained to core school areas, ensuring the neighbouring uses are not exposed to excessive or unacceptable noise from pupils.

Furthermore, and in the interests of neighbouring amenity, the use of the garden area proposed can be restricted by planning condition (as proposed in this instance). The limiting of use to core hours (08.00 – 18.00 Mondays to Fridays) would allow for use of the garden to the benefit of students, but also ensure the balance is struck with neighbours retaining evening and weekend amenity.

With regards the 2017 planning application that was refused, the proposed development in this instance does not propose physical changes to the building, bar the insertion of a door on the eastern elevation. This ensures the reasons for refusal of the 2017 planning application are addressed in that it cannot qualify as poor design, would not increase flood risk and would not be nearer to neighbouring properties than at present.

Subject to the use of this condition, it is considered that the proposal would not result in unacceptable harm to neighbouring amenity and, as such, it is in accordance with Policy DE3 of the Local Plan.

#### **4. Flood risk**

Policy ER1 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 proposal would not increase the impermeable built footprint at the site. The Torbay Drainage Matrix states there would be no objection on drainage grounds and would not require the inclusion of drainage planning condition.

The proposal is therefore considered to be in accordance with Policy ER1.

#### **5. Other Considerations**

Ecology

The planning application is supported by a Preliminary ecological Appraisal (PEA). The PEA does not identify habitat suitable for protected species and limited evidence of protected species on site.

However, the PEA does suggest works be carried out in accordance with the Conservation Action Statement (CAS) as referenced. In this instance it is considered pertinent and reasonable for all works as approved to be carried out in accordance with the practical mitigation as detailed in the CAS. This can be secured by way of a planning condition.

#### Trees

The proposal has been supported by a tree constraints plan but it is not explicit in terms of the works required to the trees identified. In this instance the trees identified are considered important and do contribute to the character of the area (and the setting of the listed building).

The supporting document reference 'Q-4307.16 V2' suggests that an Arboricultural Impact Assessment (AIA); Arboricultural Method Statement (AMS); and Tree Protection Plan (TPP) would be required post planning.

In this instance, knowing the sensitivity of the site, the benefit the trees bring and the contribution they make to the character of the area, it is considered appropriate that any planning permission requires the submission of the AIA, AMS and TPP to the LPA for prior approval. This can be secured by way of a planning condition.

#### Highways

The objection has suggested that the development would be to the detriment of highway safety. In this instance Torbay Highways have not made comments on the proposal.

The proposed change of use is unlikely to give rise to any significant change in terms of vehicle movements to and from the site, and the need for parking spaces. Nevertheless, the proposal is supported by a Travel Plan that can be secured by way of planning condition.

Knowing this it is considered the proposal would accord with Policies TA1, TA2 and TA3 of the Torbay Local Plan.

#### Neighbourhood Plan

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

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 PNP1(C) (Design Principles) The proposal complies with Policy DE1 of the Local Plan and therefore complies with Policy PNP1(C) of the Paignton Neighbourhood Plan.

The proposal is therefore considered to be comply with 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 proposal is considered acceptable, having regard to the Local Plan, and all other material considerations.

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

01. Prior to the commencement of the development hereby permitted, an Arboricultural Impact Assessment (AIA); Arboricultural Method Statement (AMS); and Tree Protection Plan (TPP) shall be submitted to, and approved in writing by, the Local Planning Authority. The AIA / AMS / TPP shall relate to trees within the red line boundary ('the site') as detailed on drawing number 3338-05 (dated 01.10.2018).

Reason: In the interests of amenity and setting of heritage assets, in accordance with Policies DE3 and SS10 of the Torbay Local Plan.

02. Other than for maintenance, the use of the garden area hereby approved in association with the D1 use, shall only be used between the hours of 08.00 to 18.00 Mondays to Fridays, with no use outside of these hours, or on Weekends or Bank/Public Holidays.

Reason: In the interests of maintaining acceptable levels of amenity for residents to the east, and in accordance with Policy DE3 of the Torbay Local Plan.

03. All of the works hereby approved are to be carried out in accordance with the mitigation measures detailed in the Conservation Action Statement (CAS) of the Preliminary Ecological Appraisal (Acord Ecology – dated 30.09.2016).

Reason: In the interests of protected species and in accordance with policies NC1 and SS8 of the Torbay Local Plan.

04. The development hereby approved shall be undertaken in accordance with the Travel Plan (reference: P2018-1113-11 (dated 01.10.2018)) as submitted that outlines measures to encourage non-car, sustainable forms of transportation, including a scheme of implementation.

Reason: In the interests of sustainable development and in accordance with the guidance contained in the National Planning Policy Framework.



### **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

SS10 – Conservation and Historic Environment

SS3 – Presumption in Favour of Sustainable Development

DE3 – Development Amenity

ER1 – Flood Risk

TA2 – Development Access

TA3 – Parking Requirements

SC3 – Education, Skills and Local Labour