

Application Number

P/2018/0901

Site AddressLand South Of 27 Empire Road
Torquay
TQ1 4LF**Case Officer**

Verity Clark

Ward

St Marychurch

Description

Formation of two detached two-storey dwellings (Revised plans received 29/01/19)

Executive Summary/Key Outcomes

The site is the combination of part of the curtilage of 27 Empire Road, which is a semi-detached two-storey dwelling, and a wedge-shaped parcel of land that sits to the south of No.27 that holds a derelict terrace of garages. The wedge-shaped parcel of land sits on "back-land" between Empire Road to the north and Forest Road to the south. The site can be accessed from Empire Road and Forest Road with two separate accesses. The proposal seeks the addition of two detached dwellings.

The principle of new residential development is accepted and it is considered that the dwellings are of a suitable size, scale, massing and visual appearance for the plot. The proposal will provide an acceptable standard of residential accommodation both internally and externally for future occupiers and adjacent neighbouring occupier and the existing property, subject to the imposition of planning conditions. The proposal is considered to be acceptable in terms of highways impact, whilst issues surrounding drainage, ecology, boundary treatments and landscaping can be agreed by way of planning conditions.

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

The proposal is considered to be in accordance with Policies DE1, DE3, H1, ER1, TA2, TA3 and NC1 of the adopted Torbay Local Plan 2012-2030 and is recommended for approval.

Recommendation

That planning permission be granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Statutory Determination Period

8 weeks. The determination date was the 7th November 2018. An extension of time to the 15th March 2019 has been agreed to allow the submission of revised plans.

Site Details

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Detailed Proposals

The proposal seeks to demolish the existing structures within the site and form two detached, two-storey dwellings accessed by an existing vehicular access from Forest Road, between 120 and 122 Forest Road.

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

Highways: The Highways Design Guide states a private drive should have a passing place if over 25m long. The Applicant may argue the existing Drive has been there for years and generated more trips when used as a Garage block and commercial storage use.

Drainage: The developer has identified that infiltration drainage will not be feasible at this development and is therefore proposing a controlled discharge to

the combined sewer system. The proposed discharge rate is 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area. The developer must demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. Therefore the developer must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

South West Water: The applicant must demonstrate how its proposed development will have separate foul and surface water drainage systems and not be detrimental to existing infrastructure, the public and environment (and that any provisions for protecting infrastructure have been agreed with SWWL as service-provider). The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable.

Summary Of Representations

Publication type: Neighbour notification letters/Site notices
8 objections have been received. Issues raised:

- Privacy and overlooking
- Drainage
- Property values
- Parking
- Health impacts
- Views
- Noise
- Emergency access
- Anti-social behaviour and crime
- Overdevelopment
- Size
- Design
- Construction work

The neighbour consultation period for this application is due to expire on the 27/02/19; any representations received before the date of the March Development Management Committee meeting will be reported verbally at that meeting.

Relevant Planning History

P/2015/0668 2 x, 3 bedroomed, semi-detached houses and a single 3 bedroomed, 1.5 story bungalow unit. Refused 28/08/2015

P/2014/1252 - 3 x Terraced 3 bed houses, plus a single 3 bed bungalow. Refused 01/04/2015 Appeal dismissed.

P/2006/0567 - Erection Of 3 No 2 Bedroom Houses With Integral Garages Served By Private Drive. Refused 23/06/2006

Key Issues/Material Considerations

The key issues and material considerations are considered to be;

1. Principle of development
2. The impact upon the character of the area
3. The impact upon the living conditions at neighbouring properties
4. The quality of the proposed residential environment
5. Highway / movement impacts
6. Drainage issues
7. Ecology

1. Principle of development

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The site is located within an established residential area and is considered to be a sustainable location for such development being in relatively close proximity to services and public transport routes. The proposal is considered to be acceptable in principle.

2. Impact upon the character of the area

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 Design 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 application site is a back-land plot within a residential area. The site has a very irregular shape and is on two main levels. The northern, higher part comprises the elongated plot of 27 Empire Road, a semi-detached house. The southern part is at a lower level and comprises a block of lock-up garages, with a small hardstanding, and a small workshop or storage building hemmed into a

narrow part of the site. It lies behind the back gardens of houses on Forest Road, with a narrow access track linking it to that street.

The proposed development includes two, two-storey detached dwellings located fairly centrally. Unit 1 sits to the west of the site next to the adjacent property, 110 Forest Road, and adjoins the boundary wall. The dwelling would include a single storey element which runs parallel to the western boundary wall with the remaining building being two-storeys in height. Parking for this unit would be provided to the east of the dwelling with the garden area located to the north adjacent to 27 Empire Road. Unit 2 sits to the east of unit 1 and includes a single-storey element on the eastern side elevation with the remaining bulk of the building being two storeys in height. Parking would be provided to the south of the dwelling adjacent to the rear boundary of the Forest Road properties with garden space provided to the north of the plot.

The area is very hilly and the street layout is irregular, so that the pattern of existing dwellings of various styles is also irregular and fairly dense in places. Previous applications on the site for larger developments have been refused due to the overdevelopment of the plot and resultant cramped appearance and impact on the surrounding properties. The current application has sought to overcome these concerns by significantly reducing the number of dwellings proposed allowing for more spacious plots and a reduced impact on neighbouring properties. The two proposed dwellings are considered to result in a suitable size, scale and visual appearance.

The footprint of the proposed dwellings will retain a suitably spacious character around the properties helping to reduce the overall impact of the development within the context of the locality. As the surrounding streetscene includes irregular development, and the existing plot includes sporadic buildings, the siting and orientation of the proposed dwellings are considered to be acceptable. The addition of two-storey properties in this location is considered to be appropriate due to the diverse nature of the dwellings in the area. The use of flat roofs, brick and cladding on the dwellings is considered to take reference from outbuildings and development which appears as back-land outbuildings and converted commercial buildings. The design and visual appearance of the units are therefore considered to be acceptable.

The proposed plots are considered sufficient to accommodate the proposed buildings, private amenity spaces, parking and manoeuvring areas, which indicates that the proposal would not result in an overdevelopment of the site.

Conditions are recommended to secure the details of cladding materials, boundary treatment, landscaping, bin storage, and the removal of permitted development rights to prevent an overdevelopment of the plots in future.

Subject to the use of these conditions, given the proposal's siting, scale, and

design, is the proposal is considered to be acceptable and without detriment to the character and appearance of the locality or street-scene in accordance with the NPPF and Policy DE1 of the Local Plan.

3. Impact upon the living conditions at neighbouring properties

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

The proposal has been modified during the course of the application in order to address concerns with the impact on neighbour amenity. Unit 1 includes a single storey element that sits along the western boundary wall adjacent to 110 Forest Road. This property is single storey in nature with the majority of its outside space located on the opposite side of its plot on the western side. The single storey nature of the proposed dwelling which is in closest proximity to this dwelling will be screened by the existing wall and is not considered to result in an overbearing or overly dominant addition to this property. The design has been modified to alter the first floor arrangement.

The first floor of unit 1 includes a corridor on the northern side of the dwelling with obscure glazed windows facing 27 Empire Road. One first-floor window is proposed on the western side elevation serving the bathroom which can be conditioned to be obscure glazed to ensure the amenity of the adjacent property is retained. The windows on the southern elevation at first-floor level have been amended to include directional windows. This will focus views to the south-east rather than directly to the rear. These windows will face towards the rear of the properties along Forest Road, however, due to the separation distances from the windows to the rear of the properties being over 20m, the relationship is considered to be acceptable. Unit 1 is therefore considered to have an acceptable relationship with the surrounding properties.

Unit 2 includes a corridor on the southern side of the dwelling, which includes windows with fixed louvered panels. This results in very limited outlook towards the rear of the properties on Forest Road resulting in an acceptable relationship. Large-scale details of this element should be conditioned to ensure an acceptable level of privacy is retained. First-floor directional windows are proposed for the northern elevation serving the bedrooms. This will direct views away from the rear of 27 Empire Road and instead result in longer range views towards the rear of the properties on St Margarets Avenue. Due to the separation distances from these windows to the rear of these neighbouring dwellings being over 20m this is considered to result in an acceptable relationship.

The movement of vehicles within the site and the addition of car parking along the southern boundary with the Forest Road properties to serve Unit 2, it is considered that the proposed access and parking arrangements would not result in unacceptable harm to the amenities of neighbours. Given that the difference in levels, and position of buildings and the high boundary wall would mitigate the

effects of vehicle movements, and a scheme of this size would be unlikely to generate excessive vehicle movements and activity, and as the site has also long been used for garaging and a workshop, the proposed vehicular movements are considered to have an acceptable impact on neighbouring amenity.

As such, with the addition of conditions to secure obscure glazing, boundary treatment, and the removal of permitted development rights, the proposal is considered to be acceptable in terms of impact on neighbour amenity and therefore accords with Policy DE3 in the Torbay Local Plan.

4. Quality of the proposed residential environment

Policy DE3 of the Local Plan 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 55 square metres for new dwellings. 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 97m² square metres is required for a four bedroom two storey dwelling. Both dwellings meet this minimum standard and adequate light and outlook is considered to be provided to the main habitable rooms. Sufficient garden space is provided for both proposed dwellings and an adequate level of outside space is retained for 27 Empire Road.

It is therefore considered that an adequate standard of accommodation for the proposed dwellings are provided and adequate parking and outdoor amenity space is maintained for the existing dwelling in accordance with Policy DE3 of the Torbay Local Plan.

5. Highway and movement impact

Policy DE3 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 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 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development.

Appendix F of the Local Plan sets out that for new dwelling houses there is a two car parking space requirement per dwelling which the site has achieved. Due to the width of the access lane and hardstanding, turning within the plot would not be possible. Two turntables have been added within the site to allow turning and exit from the site in a forward gear. A condition can be employed to ensure that the parking spaces and turntable are delivered prior to the occupation of the

dwellings and are retained at all times.

Appendix F of the Local Plan also sets out the requirement of a provision of secure and covered cycle storage for at least two cycles per dwellinghouse and adequate bin storage for waste and recycling. This can be added as a condition.

The proposal is considered to comply with Policies DE3, TA2 and TA3 of the Local Plan.

6. Drainage

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. The Council's Drainage Engineer has noted that the developer has identified that infiltration drainage will not be feasible at this development and is therefore proposing a controlled discharge to the combined sewer system. The proposed discharge rate is 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area. The only hydraulic calculations that have been submitted are for the design of the attenuation tank. There are no hydraulic calculations for the surface water drainage system discharging to or from the attenuation tank. These are required to confirm that there is no risk of flooding to properties on the site or any increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. The developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe numbering used in the hydraulic modelling and details of the impermeable areas discharging to each pipe length. All of this information is required to be included within the hydraulic modeling. The developer must demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. Therefore the developer must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

With the addition of a condition requiring further information relating to the proposed drainage scheme, the proposal is considered to accord with Policy ER1 of the Local Plan.

7. Ecology

The application has been supported by a preliminary ecological appraisal.

The report concludes that there is low potential for birds to nest on the site however it is advised that the bramble and ivy that covers the garages is removed prior to the beginning of the bird breeding season. Though basking opportunities exist for reptiles there is no foraging habitat in the vicinity. It is therefore low possibility that slow worms are present. The piles of fences and all the other debris has been around longer. When the land is cleared for development it is necessary to carefully dismantle any piles of rocks or metal debris. The structures surveyed have been assessed as having limited suitable features for roosting bats. All the structures have a corrugated asbestos/plastic roof and concrete block walls which provide negligible opportunities for crevice dwelling bat species. None of the buildings have suitable access for void dwelling bats (such as horseshoe species) and do not provide appropriate roosting provisions for these species.

With the addition of conditions the proposal is considered to accord with Policy NC1 of the Local Plan.

Other Considerations

The Torquay 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 Policy TH8 (Established Architecture). This policy requires development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings. The proposal is considered to comply with this policy. Policy TH9 (Parking Facilities) requires that all housing developments meet the guideline parking requirements unless it is shown to not increase on-street parking arising from the development or the development is within the town centre and an easy walk of a public car park. Sufficient parking is provided for the existing and proposed dwellings. The proposal is therefore considered to accord with the Torquay Neighbourhood Plan Policy.

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. No development shall take place until a method statement for the construction of the development hereby approved has been submitted to and approved by the Local Planning Authority. The statement shall provide details of the management of material deliveries and where they will be stored; measures for minimising noise and preventing dust-drift; the times of construction on the site; and the management of parking provision for contractors working on the site. The development shall be carried out in accordance with the approved details.

Reason: This information is required prior to the commencement of the development as it will confirm how the construction process will be managed in the interests of highway safety and local amenity in accordance with policies TA1, TA2 and DE3 of the Torbay Local Plan 2012-2030.

02. Prior to the commencement of the development, details of the means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the proposed surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water

drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 30% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraph 103 of the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

03. Prior to the commencement of the development above damp proof course, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-2030.

04. Prior to the commencement of any works above damp proof course level on the new dwellings, samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the streetscene in accordance with Policy DE1 of the Torbay Local Plan 2012-2030.

05. Prior to the first occupation of the dwellings hereby permitted, a scheme of

boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

05. Prior to the first occupation of the dwellings hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

06. The dwellings hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring turntable areas detailed on the plan referenced "1026-C PL-001" (received on 31st January 2019) have been fully installed. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

08. The development shall proceed fully in accordance with the Preliminary Ecological Appraisal (plan reference 'P20180901-1 (preliminary)') hereby approved.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Torbay Local Plan.

09. Prior to the first occupation of the dwellings hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 Development Access and TA3 Parking Requirements of the Adopted Torbay Local Plan 2012-2030.

10. Prior to the first occupation of Unit 1 hereby approved, the two first-floor landing windows in the northern elevation and the first-floor window on the western side elevation serving the bathroom shall be fitted with obscure

glazing to Pilkington level 4, or an equivalent standard, in accordance with the approved plan referenced '1026-C PL-004', and shall either be fixed shut or subject to an opening restrictor of up to 100mm. These windows shall thereafter be permanently retained in that condition.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

11. Prior to the installation of the three fixed louvered panels on the first-floor southern elevation of unit 2 hereby permitted, elevations at a scale of 1:10 shall be submitted to and approved in writing by the Local Planning Authority. The works shall then proceed in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the amenity of the neighbouring properties in accordance with policy DE1 and SS10 of the New Torbay Local Plan 2012-2030.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to the proposed dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted 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

H1 - New housing on identified sites

TA2 - Development access

TA3 - Parking requirements

ER1 - Flood Risk

NC1LFS - Biodiversity and Geodiversity_