

Application Site Address	The Old Toll House Abbey Crescent Torquay TQ2 5TS
Proposal	Demolition of part of existing building, extension, and change of use to cafe/bar (revised plans received 23/09/2019)
Application Number	P/2019/0317/LB
Applicant	The Venus Company
Agent	Mr Samuel Brackley – Absolute
Date Application Valid	10.06.2019
Decision Due date	05.08.2019
Extension of Time Date	29.11.2019
Recommendation	That conditional Listed Building Consent is granted. 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.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the proposed development is on land that is registered as a Torbay Council asset and an objection has been received, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Ross Wise



Site Details

The application site is The Old Toll House Abbey Crescent, Torbay Road, Torquay.

The Toll House is a Grade II Listed Building located at the junction of Abbey Crescent with Rock Walk Gardens, a Grade II entry of the Register of Historic Parks and Gardens. The freehold of the site is Torbay Council-owned. It was formerly used as a toll house, gardener's cottage, beach manager's office and public toilets. It is in a relatively poor condition. A mature and attractive Copper Beech is located immediately adjacent to the building within Rock Walk Gardens.

The site is also located within the:

- Belgravia Conservation Area (BCA).
- Torquay Town Centre Community Investment Area
- Harbourside, Waterfront And Belgrave Road Core Tourism Investment Area
- Princess and Royal Terrace Gardens Historic Park and Gardens
- Flood Zone 2

Description of Development

The proposal seeks listed building consent to demolish the more recent unattractive extensions to the Toll House and their replacement with more contemporary extensions to provide a 'café bar' use. The extensions are of a modern style which creates a clear contrast to the old building. The extension will be largely glazed, with white render and aluminium detailing.

Pre-Application Enquiry

N/A

Relevant Planning Policy Context

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Torquay Neighbourhood Plan 2012-2030 (TNP)

Material Considerations

- 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:

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Relevant Planning History

P/2004/1906/PA. Extension to Form New Bars; Change of Use to Cafe Bar. Refused 06.01.2005

P/2004/1907/LB. Extension to Form New Bars; Change of Use to Cafe Bar. Refused 06.01.2005

P/2005/1368/PA. Demolition of part of existing building; Extension and change of use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2005/1369/LB. Demolition of part of existing building; Extension and change of Use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2008/0980/PA. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2008/0981/LB. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2011/0799/PA. Extend time limit - Formation of roof terrace, modifications to lift -

P/2008/0980. Appeal Allowed.

P/2011/0802/LB. Extend time limit - Formation of roof terrace, modifications to lift -

P/2008/0981. Appeal Allowed.

Summary of Representations

4 objections were received the main concerns of which are summaries as follows:-

- Impact on the listed building and its setting.
- Scale of development
- Impact on the adjacent tree. (*Planning Officer comment:- as the proposal is for Listed Building Consent the potential impact on the tree does not form part of this assessment*).

Summary of Consultation Responses

Historic England: *Historic England commented on this proposal in June at which time we expressed concerns about the scale and massing of the proposed extension to this modest former toll house. We felt that the proposed new café building would entirely dominate this historic structure and we suggested that a more sensitive architectural solution was required in order to preserve the quality and special interest of this listed building and the character of the Conservation Area in which it sits. We also expressed regret that the building would be relegated to becoming a WC block.*

We are pleased to see that the revised scheme has reduced the height of the part of the new building which sits directly behind the historic building. The chimneys will now project above the level of the new building to the rear. However, it should be noted that in views along the seafront from the south east, the historic building will be more obscured, as the section of the new building to the south east is now entirely two storeys where the previous scheme was partially single storey with a roof terrace, thereby allowing at least the chimneys to project above the building line.

We note that historic images illustrate that at least one of the stone chimneys would have been of a tall, rather elegant design and suggest that any reinstatement should be carefully researched and designed so as not to diminish the quality of the remaining architecture. We concur with the Victorian Society's comments that a scholarly

restoration rather than either a conjectural addition or notional reference to the original would be appropriate.

As stated previously, the NPPF advises in paragraphs 193-4 that any harm or loss to a designated asset should require a clear and convincing justification - unjustified harm is never acceptable, regardless of the public benefit it brings, if alternative and less harmful options exist. Before weighing up the harm against any public benefit associated with a proposal, it needs to be demonstrated that that harm cannot be avoided or reduced through amendments to the scheme, or offset by mitigation of the harm or enhancement of the asset. Historic England's Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment, sets out a clear process for making that assessment in paragraphs 6 and 25-26. It is for your Authority to be satisfied that that process has been rigorously applied and the tests of the NPPF have been met by the application.

The Victoria Society: *The current proposal is an improvement on the previous with extensions being set back on the right-hand side, and significantly reduced to the rear. As stated in our previous letter (dated 1st July 2019) however, scale is a key element in the legibility of a toll house and extending it in any form will still lead to a degree of harm. If the application is to be acceptable the harm caused by the extension should be mitigated as far as possible by an exemplary, scholarly restoration of the building which will contribute towards its continued legibility as a toll house. Gabled porches for example were key elements of these buildings, and the illustration attached below shows that this toll house was no exception. Although demolished, this was clearly a characterful and prominent feature of the building which should be reinstated as part of the plans. This illustration moreover depicts tall stone chimneys which have now been truncated, and we would moreover consider the reinstatement of these features to be an important step towards mitigating the harm of the proposed development. Finally, the list description notes that the current windows are modern replacements, yet it is unlikely that historically they would have consisted of a single pane of glass and we would therefore suggest that further research is carried out to uncover the original design of the windows and this design reintroduced as well.*

If the council feels that the scale of the extension is acceptable, we would urge them to enforce the conditions mentioned above as a way of mitigating the harm to this listed building.

County Archaeologist:

I defer to the advice of your specialist consultees (e.g. the Victorian Society and the TCCT) regarding the proposal's impacts on the built and natural environmental.

My advice remains the same, that if your authority is minded to grant consent for the development then there should be a programme of historic building recording.

Key Issues/Material Considerations

1. Impact on Heritage Assets.

Planning Officer Assessment

1. Impact on the Designated Heritage Asset

Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy TH10 of the Torquay Neighbourhood Plan support alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

The application site envelops the Grade II Listed Toll House and its various extensions and sits at the edge of the Princess and Royal Terrace Historic Park and Gardens.

The Old Toll house is mentioned within the Belgravia Conservation Area Appraisal (BCAA) and describes its history of uses. The building has had various uses since it was built in 1841 at the same time as New/Torbay Road. Collecting tolls discontinued in 1848 and since then it has been used as the town gardeners' cottage (formerly known as Dyer's cottage), a beach manager's office and public conveniences.

The Old Toll House is described as being one of a limited number of buildings within the BCA being constructed of exposed stone. Predominantly the building material is white/colour-washed stucco or render.

The Old Toll House's overall significance is derived in the most part from its historic and architectural values. The building is tied directly to its location in local history, providing historical links to the creation of the New/Torbay Road and the toll required to utilise it. Its architectural value could be considered to result from its detailing and use of exposed local limestone. In terms of its **evidential** value, there is likely to be little due to the previous changes in its use. It is also noted that there are limited remaining examples of pre 1850s toll houses and that Historic England identifies them as serious candidates for listing.

The property has been vacant for some time and is becoming vulnerable to deteriorating beyond its current level. The proposal would restore much of the heritage asset and bring it into commercial use to be enjoyed by the public.

The application proposes both internal and external alterations to the building with the creation of a café/restaurant with seating spread across two floors. Internally, the proposal would involve the fairly limited interventions into the historic structure. A section of wall would be removed to provide access into the internal space within toll house where toilets would be located.

The external alterations would be the most evident, as the proposal would demolish the non-original extensions of the historic structure and replace them with a contemporary extension that would wrap around the Old Toll House, sitting between the rock face and the existing Beach tree.

It should be noted that during the course of the application the proposal has been modified to respond to the initial consultation responses. The proposal originally sought to construct a much larger extension of the Toll house that presented a two storey structure along the length of the site to the rear, with a single storey element sitting beside the Old Toll House on its Abbey Crescent elevation.

After negotiations, the plans have now been amended to omit the two storey element from behind the Toll House structure. The main massing of the proposal has been shifted South-Eastwards and presents a design that sits the main elements side-by-side. An outdoor terrace area would now be located to the North-West at first floor level in the place of the former enclosed first floor seating area.

The proposed revised design of the extension to provide a café/restaurant use would introduce a contrast to the existing structure that would emphasize the external materials and architectural style of the Old Toll House by presenting a contemporary design with a restricted palette of materials.

The Victorian Society and Historic England have commented that if a scholarly restoration of the Old Toll House is completed then the proposal could be considered acceptable and could offset the implications of the scale and massing of the proposed extension. The suggested restorative works proposed by the Victorian Society will be implemented through planning conditions to ensure the proposal enhances the historic qualities of the Old Toll House.

However, in particular, the reinstatement of the gabled porch to the south-West elevation is not considered to be appropriate as the inclusion of this particular element would not be possible, if it was to be undertaken accurately, as gradually over time, the level of the surface in the area outside the Old Toll House has been raised. This is evident when viewing the South-West elevation and observing how the current paved surface intersects the courses of exterior limestone masonry. In this case, if the porch were to be re-instated it is unlikely to have its original intended appearance and it is therefore considered to be inappropriate.

The Devon County Archaeologist has advised that a Written Scheme of Investigation (WSI) should be submitted prior to development to which this permission relates to set out a programme of historic building recording work to be undertaken in mitigation for the impact upon the historic fabric and appearance of the proposal. This, like the aforementioned suggestions from the Victorian Society, will be sought through condition.

Where the proposal seeks to remove elements of the existing extensions to the toll house building that are physically attached to it, all works should be undertaken sensitively to minimise any potential harm leading from their removal. A condition will be used to ensure the appropriate materials are used where any repairs are required.

To ensure the restoration works are completed in a timely manner, a condition will be used to ensure the restorative works are completed before the building's first use as a café/restaurant.

At the time of drafting this report a set of drawings that respond to the most recent comments from Historic England and the Victorian Society, are awaited.

Subject to the receipt of acceptable further drawings and the imposition of conditions, the proposal is considered to have an acceptable impact on the heritage assets as the proposal would restore and bring the building back into use, remove unsightly additions and use of high quality materials. As such the proposal is considered to be acceptable with regard to Policies SS10 and HE1 of the Local Plan and Policy TH10 of the 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.

Conclusions and Reasons for Decision

The proposal is considered acceptable, having regard to the requirements of the Planning (Listed Building & Conservation Areas) Act, relevant Development Plan policies, and all other material considerations.

Officer Recommendation

That delegated authority is given to the, to grant listed building consent, subject to the receipt of acceptable revised plans being received that address the most recent comments from Historic England and the Victorian Society, and 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.

Conditions

Materials

Prior to the use of any building materials that would be used for the repair of the historic fabric or within the external appearance of the building, including cladding, stonework and mortar, the proposed materials (including samples where appropriate) shall be

submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Scholarly Restoration

Prior to development, details of the restorative works suggested by the Victorian Society, besides the re-instatement of the porch, to the original Toll House structure shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Restorative Works

Prior to the first use of the development hereby approved restorative works to the historic Toll House shall be completed in accordance with the details hereby approved and/or approved as details pursuant to conditions attached to this permission.

Reason: To secure improvements to the Toll House and an acceptable form of development within the Belgravia Conservation Area, in accordance with Policies SS10, and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Written Scheme of Investigation

No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted and approved in writing by the Local planning Authority.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of the historic building fabric that may be affected by the development.

Windows/Doors

Prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority, which seek to respond to the positive aspects of the local prevailing character of the area:

- Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the designated heritage asset with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Relevant Policies

HE1 – Listed Buildings

SS10 – Conservation and the historic environment

TH10 – Protection of the historic built environment.