

The villa has been subject to a number of alterations and extensions over the years in order to provide additional holiday accommodation in the hotels heyday, which did compromise its architectural integrity.

The site is bound to the north by Middle Warberry Road, to the east by The Warberries Nursing Home and to the west by a block of flats known as 'Sorrento'. The site slopes down from the north to the south. The main villa is grade II listed, as is the neighbouring nursing home; the pavilion at the east of the site is also separately grade II listed as is the entrance gate and piers.

The major part of the garden to the villa, which lies to the east of the site, was previously occupied by two additional terraces of holiday accommodation running east-west across the site and built into the slope. The lower terrace has been partly demolished in recent years.

The site is within the Warberries Conservation Area. The Conservation Area Appraisal identifies the main villa as an important building with an unspoilt frontage. The view south from the rear of the villa is identified as important within the conservation area and the front boundary walls are shown as prominent walls. The site is covered by a Tree Preservation Order (1973.12).

Description of Development

Listed building consent is sought for the development of 20 dwellings (5 apartments and 15 houses). The scheme comprises the conversion of the existing Bishops Court Grade II Listed Building to 5 apartments. The conversion of 14 existing apartments/bedsits to the north & north-west of the Listed Building to four houses. The partial conversion, extension and new build of five houses to the north-east of the Listed Building referred to on the plans as the Upper Houses. The partial conversion, extension and new build of five houses to the south-east of the Listed Building referred to on the plans as the Lower Houses, and a new house in the south west corner of the site for a live on-site caretaker.

The proposed development includes the subdivision of the principle building into 5 apartments. Internally alterations are proposed to the openings, circulation space and new partitions are proposed to facilitate the conversion. The proposal provides 2 apartments to the ground and first floors, with a further 1 apartment to be located on the second floor.

Fourteen of the proposed houses are either conversions or conversion/extension/new build on the footprint of existing buildings on the site. There is also a proposed new house in the south-west corner of the site that is currently a surface parking area.

The apartments and houses all have garaging, the development provides 57 parking spaces including 39 spaces for the 20 dwellings and 18 visitor spaces including 3 disable parking spaces.

Pre-Application Enquiry

N/A.

Relevant Planning 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")
- The Torquay Neighbourhood Plan

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.

Relevant Planning History

P/2019/1274: The Major Planning Application which accompanies this Listed Building Consent application; recommended for approval, pending consideration.

P/2013/0372/MPA: This provides for the demolition of the existing holiday accommodation in the garden area and its replacement by a lower terrace of 9, 3 storey, 3 bed dwellings and a rear terrace of 9, three storey, 4 bed dwellings. Each of the terraces has integral garages and visitor spaces; committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P/2013/0400/PA: This application proposed amendments to the approved scheme for conversion of the main villa to flats and reduces the number of units from 8 to 7. The ground floor apartments comprise 2 large 3 bed units to avoid undue impact on the existing layout. Of the remaining units, 4 are 2 bed units and 1 is 1 bed. The changes relate principally to the layout and alterations to the rear elevation; committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P.2013/0401/LB: Is the listed building application in connection with the above planning application.

P/2013/0891: This relates to the redevelopment of a block of holiday accommodation to the rear of the villa to provide 6 new dwellings (2x 1 bed 3 x 2 bed and 1 x 3 bed); committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P/2012/1001: Certificate of lawfulness for a proposed erection of four dwelling house described as Mews Building E in accordance with planning permission granted on 8 July 2009 (LPA ref P/2008/1623/MPA); Approved 08.02.2013

P/2008/1623 & P/20089/1624: Alterations to grade II listed building and conversion into apartments; removal of hotel and bedroom blocks; formation of 42 residential units and spa facilities comprising 32 no 2 storey dwellings and 10 no apartments (revised scheme); Approved 08.07.2009

Summary of Representations

One letter of objection was received at the time of writing this report which stated that the development would be out of keeping with the area and overly dense.

One letter of representation was received which requests a condition be added regarding flood risk.

These letters were submitted with reference to the Major planning application which accompanies this application and not for this Listed Building Consent application.

Summary of Consultation Responses

Historic England – No comment

Torbay Council Heritage advice –

Built 1844, Bishops Court (formerly Normount) is a large Neo-classical style property with a natural slate roof and stucco/painted render external finish. The building is described within the published Warberries Conservation Area Appraisal as having a largely unspoilt frontage and being part of an important group of buildings.

The building has been subject to various alterations including extensions, alterations to the plan form and inconsistent decoration undertaken throughout the life of the building during its residential and hotel uses. The significance of the heritage asset has undoubtedly been impacted in the past by unsympathetic development both to itself and the setting. However, the building still retains many features that contribute positively to its historic and architectural value.

It is proposed to subdivide the principle building into 5 apartments. Internally alterations to the openings, circulation and new partitions are proposed to facilitate the conversion. 2 apartments to the ground and first floors are proposed, with a further 1 apartment to be located on the second floor.

Generally the approach to the conversion into 5 apartments is more suitable than the previously approved application that sought a larger number of units. The relieved pressure has enabled a more sympathetic subdivision of spaces, with the larger units allowing for a reduced impact upon features of architectural interest throughout the Grade II Listed building.

The method of internal subdivision would retain any existing detailing such as cornicing, panelling and picture rails and would continue them around the newly created spaces. Partitions have also been located pragmatically reducing clashes with detailing where possible. Where insulation is proposed to exterior walls to provide increased thermal performance, any surface mounted detailing would be

carefully removed and repositioned on top of the newly lined walls to match the existing appearance, preserving the historic plaster beneath. Whilst the proportions of some of the rooms would be altered with the proposed layout, many of the principle rooms have been retained relatively unaltered. As stated within the submitted heritage statement, the stripping out of any redundant services when work is carried out on site should be carried out with care to ensure the historic fabric is preserved. The proposal would retain significant features for example fireplaces and surrounds, throughout the building and has minimised the removal of internal historic fabric allowing the alterations to the layout to be generally reversible.

There would be few alterations to the unspoilt frontages of the building, with repair to existing stucco/render and windows and general redecoration. Throughout the building many of the windows would be 'overhauled' repairing/replacing where necessary to match comparative originals where appropriate. The replacement of existing windows with new timber sliding sash to match others in the rear wing would provide a consistent appearance to this part of the building. The proposed replacement/alterations to the windows would provide a consistent appearance within wing extending from to the North and to other existing windows within the newly created courtyard area. The removal of later incongruous additions to the building would result in an enhancement of the existing appearance of the building.

The listed description describes the large terraced garden having been altered for hotel use. The contribution of garden to the setting to the significance of the heritage asset has undoubtedly been eroded over time through a series of developments and alterations. Beyond the site itself, there are limited views of the listed building and its setting due to the wider topography of the area and the site's existing boundary treatment and vegetation.

The proposed residential development within the grounds would be located in the place of existing alterations to the setting and, as such, are considered to be suitably located. The key views of the listed building on entering the site up the sweeping drive would be maintained, enabling the intended prominence of the listed building to be appreciated. The proposed layout would also maintain the link between the listed building on the site and the listed pavilion located within the grounds.

The cumulative change to the setting over time, has resulted in the setting of the heritage asset no longer making the contribution it once did to the significance of the listed building.

Conclusion

The proposal is a suitable development that would enable the continued use of the building and would result in improvements in the quality of the Grade II Listed building after the removal of extensions and other alterations that currently have a negative impact on the significance of the building.

Whilst there are some elements of the proposal which might be regarded as falling within the less than substantial harm category these are weighted against the other more positive elements highlighted, which overall would serve to result in a neutral impact on the special merit of the listed building.

This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Recommendations.

It is recommended that a schedule of works should be submitted that include details all internal and external alterations to the Listed Building.

All stripping out should be undertaken with particular care to ensure the historic fabric is preserved. Where alterations to the historic fabric are identified and necessary works of making-good should be carried out to match the existing original adjacent work in respect of materials used, detailed execution and finished appearance.

The development should be carried out in accordance with the submitted details.

Key Issues/Material Considerations

Planning Officer Assessment

1. Design and Visual Impact
2. Impact on Heritage Assets

1. Impact on Visual Amenity

1.1 The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it 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'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

1.2 Accordingly, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criterion 3 refers to development that helps to develop a sense of place and local identity and criterion 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

1.3 Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

1.4 Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character in terms of height, scale, and bulk; and reflect the identity of its surroundings.

1.5 The Grade II Bishops Court building is to be divided into 5 apartments rather than 8 which are currently approved. Externally the alterations include the removal of the later rear north-west corner extension of the mansion and the polygonal linking element will be removed to restore the separation between the building and its former service wings. The windows throughout the building are to be 'overhauled' and repaired or replaced where necessary to match the comparative originals. The general approach to the alterations and refurbishment of the mansion will remain much as previously approved, but with fewer apartments.

1.6 The conversion of the building to the north and north-west of the Listed Building from fourteen existing apartments into four houses is considered to provide an enhancement to the Listed Building's setting through the reduction in the density of activity which will create less pressure on the site from uses such as car parking that presently are considered as harming to the setting of the Listed Building. The minor external alterations to the render and cornice are considered to enhance the buildings.

1.7 The five houses proposed to the north-east of the site will be located in a similar position, albeit over an extended footprint, as the existing buildings in this location. The new houses would be no higher than the existing building and would be finished with sedum roofs with solar arrays. The houses would consist of a lower ground floor parking area and home gym/cinema area with three storeys of accommodation above. The north elevation facing Middle Warberry Road is clad with natural slate so as to have a similar appearance as the existing. The proposed buildings in this location would be no more visible than the existing. The south facing elevations provide a modern contrast to the Listed Building and follow the design considered acceptable as part of previous applications on the site. The houses are finished with render on and broken up on their southern elevations at ground floor by cladding and on the east and west elevations by cladding and additional windows. The materials for the cladding will form part of the materials condition and it may be a more suitable solution for the cladding to be stone rather than timber.

1.8 The south-east block of five houses is a partial conversion of the existing building, a very substantially engineered concrete structure that supported a garden area and lawn tennis court on its roof. The five houses here would be of a similar design and finish to the five to the north of them. They would comprise of a ground floor parking area and gym/cinema room with two storeys of accommodation above. The five houses will be on a lower part of the site that slopes steeply from south to north, which would provide some mitigation to the perceived height of these buildings and their relationship to the Listed Building.

1.9 The Caretaker's house is a modest 3-bedroom house located in the south-west corner of the site on the opposite side of the access road to the Listed Building and is finished with timber cladding and a natural slate roof, which is befitting of its

tree orientated setting. It will be seen as being separate from the Listed Building and will have limited impact on its setting.

1.10 It is considered that the form and layout of the development would make effective use of what is brownfield land, and respond well to the topography of the site. The development would result in some enhancements to the site which includes dated and tired structures and would provide a less dense development than the 42 dwellings that currently have consent on the site. The key views of the listed building on entering the site up the sweeping drive would be maintained and the proposed layout would also maintain the link between the listed building on the site and the listed pavilion located within the grounds.

1.11 Given the proposals' siting, layout, scale, and overall design, it is considered that they would not result in any unacceptable harm to the character of the area. Subject to the use of conditions to secure the use of high quality materials; a scheme of hard and soft landscaping; boundary treatment details; bicycle, and refuse storage arrangements, it is considered that the proposal is in accordance with Policies DE1, SS10, SS11 and HE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

2. Impact on Heritage Assets

2.1 The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

2.2 Section 72 of The Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. Similarly Section 66 of the Act requires that in considering whether to grant planning permission for development which affects a Listed Building or its setting, the local planning authority 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.

2.3 Policy HE1 refers to Listed Buildings and states that development proposals should have special regard to preserving listed buildings and their setting. Policy SS10, Conservation and the Historic Environment, 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 designated Conservation Areas.

2.4 Policy TH10 of the Torquay Neighbourhood Plan states that alterations to Listed Buildings will be supported where they safeguard and enhance their historic

qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported. Policy TT2 of the Torquay Neighbourhood Plan which states that change of use from tourist accommodation and other development proposals requiring consent will be supported in principle to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment. However the change of use of the hotel to residential is largely established by extant permission P/2008/1624.

2.5 It is considered that the conversion of the Grade II Listed Building into 5 apartments is more sympathetic to the internal architectural features than the extant permission which sought to divide the building into 8 apartments. The reduction in units reduces clashes with detailing and allows for minimal alterations to the principle rooms and in general the alterations to the layout to be generally reversible.

2.6 There would be few alterations to the unspoilt frontages of the building, with repair to existing stucco/render and replacement windows to timber sliding sash to match the original windows, where appropriate which would provide a beneficial and consistent appearance throughout the building. The proposal includes the removal of later incongruous and deleterious additions to the building which would result in an enhancement of the existing appearance of the building, the structure linking the Grade II Listed Building to the building to the north is to be removed which reinstates the building to its original, stand alone, setting.

2.7 The conversion of the building to the north/north-east, which includes minimal external alterations, would result in a better relationship to the Listed Building than the extant permission on this part of the site, which allowed for 14 dwellings, insofar as the pressure on space for parking, bin storage and amenity space.

2.8 The proposed development of 5 dwellings to the north-east of the Listed Building, although being increased in footprint would have a limited impact on the setting of the Listed Building. This building is to be no higher than the existing building in this location and its north elevation is designed to be of similar appearance to the existing. Consequently this part of the development, which is the most visible in the wider conservation area, is considered to have an acceptable impact on the character and appearance of the conservation area.

2.9 The proposed development of 5 dwellings to the south-east of the Listed Building would result in an additional 2 storeys of development in this location which would inevitably result in the most impact on the Listed Building considering the sympathetic nature of the scheme overall. However, due to the topography of the site, they are set lower than the Listed Building and the limited impact they would have on the setting of the Listed Building is considered to be less than substantial whilst providing a public benefit by providing viable addition dwellings to the Councils five year housing land supply. In terms of their impact on the setting of the Listed Building, the Councils Heritage advisor has stated that the cumulative change to the setting over time, has resulted in the setting of the heritage asset no longer making the contribution it once did to the significance of the listed building. The additional

development in this area would not significantly impact on the main view of the Listed Building which is obtained when entering the site and moving up the driveway.

2.10 As previously noted, the dwellings to the north-east and south-east of the Listed Building are of a modern design which is deemed to be acceptable in this location and provides a distinction between old and new rather than a less appropriate pastiche form of development.

2.11 The proposed care takers accommodation is considered to be of an acceptable scale, location and design so as to have limited impact on the setting of the Listed Building and the wider conservation area.

2.12 Overall the proposal is deemed to be a suitable development that would enable the continued use of the Listed Building and would result in improvements to its quality through the removal of extensions and other alterations that currently have a negative impact on the significance of the building. Whilst there are some elements of the proposal which might be regarded as falling within the less than substantial harm category these are weighted against the other more positive elements which overall would serve to result in a neutral impact on the special merit of the list building.

2.13 Subject to a condition requiring the submission of a schedule of works that include details of all internal and external alterations to the Listed Building, as recommended by the Councils Heritage advisor, the proposal is considered to comply with policies HE1 and SS10 of the Torbay Local Plan and policies TH10 and TT2 of the Torquay Neighbourhood Plan.

2.14 This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

3. Other Considerations

Housing Supply

3.1 The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, with the land supply position at 2019 was 2.5 years and the draft position for 2020 is similar to this. The five year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

3.2 Considering the housing supply position it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

3.3 It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to be in conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Proactive Working

In accordance with the guidance contained in the NPPF the Council has worked in a positive and pro-active way and has secured improvements to the scheme through revised plans, and concludes that the application is acceptable for planning approval with imposed conditions to enable the grant of planning permission.

EIA/HRA

HRA

The proposal does not include any works which would result in the loss, damage or disturbance, at a landscape scale, to a network of potential GHS commuting routes. The proposal will not cause loss, damage or disturbance to any existing mitigation features or pinch points. Therefore, there is unlikely to be a likely significant effect on the South Hams SAC and a detailed HRA is not required.

E IA

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.

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 development is considered to result in less than substantial harm to the Listed Building with a public benefit through the re-use of said Listed Building and the provision of much needed additional housing.

The proposals are considered to be in accordance with the provisions of the Development Plan.

The Officer recommendation is one of conditional approval. The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Approval: Subject to;

The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Materials

Prior to the commencement of any development other than demolition, a full external material schedule to include details of colour, form and texture, rainwater goods, ducting, flues, ventilation extraction and meter boxes. Where requested by the Local Planning Authority samples of materials to be used in the construction of the external surfaces of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the area in accordance with policies DE1, SS10 & HE1 of the Torbay Local Plan 2012-2030 and policy TH8 of the Torquay Neighbourhood Plan.

2. Schedule of works

The conservation repair works to the Grade II Listed Building shall be completed in accordance with the approved schedule of works and shall be retained as such at all times thereafter.

Reason: in order to preserve the heritage asset in a manner appropriate to its significance and in order to comply with Policies SS10 & HE1 of the Torbay Local Plan 2012-2030.

3. Windows and 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:

- 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 Listed Building in accordance with Policy HE1 of the Torbay Local Plan and TH10 of the Torquay Neighbourhood Plan.

Relevant Policies

- SS3 - Presumption in favour of sustainable development
- SS9 - Green Infrastructure
- SS10 - Conservation and Historic Environment
- SS11 - Sustainable Communities Strategy
- SS12 - Housing
- SS13 - Five Year Housing Land Supply
- SS14 - Low Carbon Development and Adaptation to Climate Change
- W2 - Waste audit for major and significant waste generating developments
- W3 - Existing waste management facilities in Torbay
- SDP1 - Paignton
- SDP3 - Paignton North and Western area
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 – Parking requirements
- ES1 - Energy
- NC1 - Biodiversity and Geodiversity
- H1 - Applications for new homes
- H2 - Affordable Housing
- DE1 – Design
- DE3 - Development Amenity
- HE1 – Listed Buildings
- C4 - Trees, hedgerows and natural landscape
- ER1 - Flood Risk
- ER2 - Water Management
- TH8 - Established architecture
- TH9 - Parking facilities
- TH10 - Protection of the historic built environment
- TS1 – Sustainable Development
- TS4 - Support for Brownfield and Greenfield development