

TORBAY COUNCIL

Application Site Address	284 Totnes Road, Paignton, TQ4 7HB
Proposal	Proposed New Vehicle Wash and Valeting Service Station
Application Number	P/2022/0295
Applicant	Mr M Omar
Agent	Mr J Ling-Cottery
Date Application Valid	17.03.2022
Decision Due date	12.05.2022
Extension of Time Date	n/a
Recommendation	Refusal
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	June Pagdin

Location Plan



Site Details

The application site, 284 Totnes Road, Paignton is a hard-surfaced site owned by Torbay Council on the north east corner of the crossroads of the A380 (Brixham Road/Kings Ash Road) and A385 (Totnes Road).

The site is roughly triangular; 44.7m long and 18m wide at the northern end tapering to 4m wide at the southern end. The area is approximately 525sqm. A narrow strip on the western boundary abutting the footway on Kings Ash Road is Highways land reserved for future junction alterations.

The eastern boundary is formed by a high wall along the side of the residential property at No 282 Totnes Road. The northern boundary is formed by walls that back onto a private access road that runs behind the houses on Totnes Road. A wire fence surrounds the site.

The site is hard-surfaced and a small triangular area in the north east corner has a 2-3m high flat roof. The vehicle access to the site is in the north west corner of the site at the junction of the private access road and Kings Ash Road. The road is marked with yellow hatching and the vehicle access slopes downwards to the junction.

The site forms part of the built-up area of Paignton. The crossroads junction is known as Tweenaways Cross and is a gateway to Paignton from the west and on the main north south route between Torquay and Brixham.

Policy PNP22 of the Paignton Neighbourhood Plan identifies the Western Corridor (Kings Ash Road/Brixham Road) as a location where developer contributions towards road improvement costs and improvements to safe Active Travel (pedestrian, bus and cycling routes and facilities) would be sought. Tweenaways Cross is identified (para 6.118) as a major bottleneck with long traffic queues where improvement to the traffic capacity is required in order to accommodate proposed growth. The Policy also identifies the area as having unsatisfactory provision for active travel.

Description of Development

The application seeks temporary planning permission (lease of 9 years) to use the site as a vehicle wash and valet service station (sui generis- in a class of its own) as follows:

- Access from Kings Ash Road using existing entrance
- 10 - 20 car spaces
- wash area against eastern boundary wall
- valet area on north end of site close to access point
- both areas 10m x 5m under 4.5m high steel-framed cantilevered canopies

- 2m high polycarbonate splash-screen along western boundary to Kings Ash Road
- welfare cabin (prefabricated WC and office), 2.5m high, 15sqm on southern end of the site
- surface drainage attenuation with silt and oil trap discharge into foul sewer
- foul sewage to discharge into mains foul sewer
- private trade waste collection
- no employment details given
- hours of opening: 9am to 6pm in winter, 9am to 7pm in summer, 7 days per week.

NB all measurements are approximate.

Pre-Application Enquiry

None.

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 Paignton Neighbourhood Plan ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- Planning Practice 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/1985/1921: Use as Fish and Chip Shop. Refused 19.08.1985. Allowed on appeal.

P/1987/1895: Alterations and use of premises as a car showroom with access ramp at rear. Approved 24.05.1988.

P/1988/0028: New Shopfront for Car Showroom. Refused 22/03/1988. Reason: highway safety and obstruction from cars emerging onto Kings Ash Road.

P/1988/0969: New Showroom Front. Approval 03.03.1989.

P/1993/1105: Non-illuminated Hoarding Signs. Withdrawn 23.12.1993.

P/1998/0671: Demolition of Disused Fish and Chip Shop. Approved 30.06.1998.

P/1999/1353: Change of Use to Sale of Ceramic Wall and Floor Tiles. Approval 15.11.1999.

P/2004/0349: Erection of fence around perimeter of car park (As revised by plans received 13.04.2004). Refused 16.04.2004. Reason: height, prominent location and materials being visually intrusive and detrimental to street scene.

P/2020/0090: Installation of Internally Illuminated LED-poster. Withdrawn 15.07.2020.

Summary of Representations

Neighbour letters were sent out on 1st April 2022.

Twenty five responses were received; 24 objections and 1 in support of the application. Comments can be summarised as:

Objections

- Any gap in the wall would result in water running into No 282 Totnes Road and causing damp.
- Water run-off from the site would erode damaged surface of private road to north
- Surface water drainage will contain chemicals and drain down the private road into the watercourse
- There is already one car wash adjacent to No 238 (130m away)
- The proposed access point is not safe
- Tweenaways Cross junction is extremely busy - accidents occur and loss of life
- If vehicles block the entrance over the pavement, pedestrians will have to walk into the road
- Queuing customers will either block the highway or block a private accessway
- Queuing cars would block the left turn lane on Kings ash Road for Paignton and the zoo
- Private access lane to rear serves residential properties and needs to be kept clear and not be blocked by queuing/manoeuvring cars - how would that be enforced?
- The private access is already used as a rat run
- Suggest a Box junction camera

In Support

- All vehicles will be encouraged to enter and leave King's Ash Road through use of clear signage and on-site direction.
- Clear and unobstructed access will be maintained to the existing vehicle cross-over onto the highway
- Will avoid reliance on the land to the rear of Totnes Road.

Summary of Consultation Responses

Community Safety: No objections.

Highways: Objections relating to safety of access/egress from Kings Ash Road and queuing back along A380. Confusing highways access layout. Amendments sought to prevent turning right into and out of the site. Use of Highways land may be time limited and built structures limited. Requested swept paths for a car, emergency vehicle and refuse vehicle, a Refuse Management Plan, PIC data, TRICS output and average dwell time on site requested.

Drainage: the development is located in Flood Zone 1 and due to the risk of contamination the use of infiltration drainage is not feasible, the developer is proposing a controlled discharge to the combined sewer system, please use the recently agreed standing advice for this planning application.

South West Water: Can supply potable water to the site. Foul water and waste water can be discharged to foul sewer. Surface water drainage for the site discharge to a local waterbody. Therefore, surface water may only be discharged to surface water sewer provided that it is confirmed that there is no trade effluent.

DCC Ecology: Impact on South Hams SAC – request a condition over lighting. Concern over surface water drainage into watercourse that flows into Clennon Woods CWS. Request clarification whether water impacts on the local designated site. (See under 5. Ecology and Biodiversity).

Key Issues/Material Considerations

1. Principle of development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Ecology & Biodiversity
6. Flood Risk and Drainage
7. Low Carbon and Sustainability

Planning Officer Assessment

1. Principle of development

The proposal seeks permission for temporary use of the site as a commercial car wash and valet station.

The site was previously in use for commercial retail purposes. However, previous structures have been removed from the site, except for a small, triangular, flat, 4m high roof supported by the eastern and northern boundary walls. Part of the site along the western boundary is reserved for future highway works.

The site is within the built-up area of Paignton. Policy SS4 of the Torbay Local Plan encourages new businesses and investment to create jobs and supports expansion and diversification of the economy. The Policy states that the Council will, in principle, support proposals that deliver employment space and high value jobs. The submitted information does not specify the number of jobs likely to be created by the proposed development or the skill level. However, it can be assumed that some jobs would be created.

Policy SS5 aims to see sufficient high-quality employment space and environmental improvements provided on existing and newly allocated sites and in urban renewal projects. The proposal is for a temporary use and does

not propose new employment space except for a prefabricated welfare cabin (WC/office), perspex screen and temporary cabins.

Policy PNP1 (Area-Wide) supports developments that provide new employment together with infrastructure improvements and developments that reduce the need to travel, involve new technologies and assist moving towards a low carbon economy. The current proposal is for temporary use for nine years pending junction improvement works. As such, the proposal would not contribute to these longer term aims. In the vicinity there is another provision for car washing and valeting 130m away on Totnes Road).

While there are no Development Plan policies indicating that the proposed use is not acceptable in principle, this is subject to other planning policy considerations such as transport, visual and environmental impacts and other relevant material considerations, which will be discussed in more detail below.

2. Impact on Visual Amenity

Paragraph 126 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 134 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 DE1.15 highlights that new developments should make the most of opportunities to restore/improve gateways into the Bay and to create a focal point.

Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the property, to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal would be on a prominent gateway site at the entrance to the Bay from the west on Totnes Road and on the north south route along the A 380. The three other corners have development set back from the junction; housing on the opposite corner is set behind a grassed and treed slope. The retaining wall on the south east corner is a stepped, curved brick wall with ornamental timber fence. The north west corner is under development; approved plans show the proposed building set back from the corner behind soft landscaping and retention of mature trees.

The appearance of the site is currently open. The proposed welfare cabin, canopies and Perspex screen would not enhance the site or create a focal point in the short or long terms. The use itself results in paraphernalia distributed within the site and the Perspex screen is likely to retain

soap/water/dirt splatters adversely affecting its appearance. This would be in contrast to the recent efforts to improve the visual appearance of the junction. Given the siting, scale, and design of the proposal it is considered that the proposal would result in unacceptable harm to the character and visual amenities of the locality.

The proposal, consequently, would be contrary to the aims of Policies DE1 of the Local Plan and PNP1(C) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future residents and should not unduly impact upon the amenity of neighbouring properties and surrounding uses.

The proposal would not cause loss of privacy, loss of light or overbearing impact on the neighbouring occupiers.

The proposed hours of operation are during the day time and coincide with the higher levels of use of the roads around the site and the Tweenaways Cross junction. However, a Noise Assessment was not submitted so the impact of the noise (of water jets, valet vacuums and general noise from the additional movement of cars) over and above the roads cannot be assessed.

Residents have objected to the potential for water running into the adjacent property if the wall did not retain the water used in the car wash. The washing bay is shown as abutting the wall that adjoins the residential property at No 282 Totnes Road. It overlaps for a short distance the flank wall of the house. A scheme for ensuring that water does not adversely affect that party wall and property has not been submitted. Party wall matters are covered by the Party Wall Act and not planning matters.

The submitted Technical Note (Transport and Access) at paragraph 2 proposes use of the rear private lane to access the application site. Surrounding residents have objected to the use of this private access road. The road serves the rear of residential properties in Totnes Road and Kings Ash Road and provides the only access to a few residential properties. The amended comment from the applicants that customers would be discouraged from using the rear access lane. Residents have commented that this would be difficult to enforce.

While enforcement of private rights of access is not a planning matter, the provision of adequate access to serve a proposed development is a planning matter and this is considered under the Highways section of this report.

Given the lack of submitted noise assessment, the Council has not been able to fully assess the impact on neighbouring amenity.

The proposal is not considered to be in accordance with Policy DE3 of the Local Plan.

4. Impact on Highway Safety, Access and Parking

Policy TA2 of the Local Plan states that 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 PNP22 of the Paignton Neighbourhood Plan identifies the Western Corridor (Kings Ash Road/Brixham Road) as a location where developer contributions towards road improvement costs would be sought and improvements to safe Active Travel (pedestrian, bus and cycling routes and facilities). Tweenaway Cross is identified (para 6.118) as a major bottleneck with long queues where improvement to the traffic capacity is required in order to accommodate proposed growth. There is currently unsatisfactory provision for active travel in this area. Developments that exacerbate the traffic issues in this area without providing satisfactory design or other solutions fall contrary to the objective of this policy. New developments are also required to demonstrate improvements to safe Active Travel provisions.

The Highways Authority has objected to the proposed access layout as likely to result in queuing along Kings Ash Road and so adding to the existing acute congestion at the junction. They have also requested additional information in the form of swept paths for large cars accessing, turning and egressing the site in forward gear. This has not been provided.

The Highway Authority has also objected to the layout of the proposed access, allowing right hand turns into the site across four lanes of traffic from Kings Ash Road south and egress from the site to the north. This is considered to adversely impact traffic safety at the junction and in the vicinity.

The proposal would add to the existing congestion and undermine the safety of the junction but make no contribution to improving the road or improving safe Active Travel.

Consequently, the proposal is contrary to Policy TA2 of the Local Plan and Policy PNP22 of the Paignton Neighbourhood Plan.

Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces as 4.8m x 2.4m. A parking layout for the site could be secured by a condition on a planning decision.

Policy DE3 and Policy PNP1(e) of the Paignton Neighbourhood Plan states that new development should aim to achieve space for solid waste storage within the curtilage and that this be out of sight as far as practicable. The Highway Authority has also requested a detailed refuse management plan for the site, which could be secured by a condition on a planning decision. However, the submission of swept path diagrams is required before this can be assumed to be practicable.

The proposal is considered unacceptable with regards to Policies TA2 and DE3 of the Local Plan and PNP1(e) of the Paignton Neighbourhood Plan.

5. Ecology & Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

The application has not been accompanied by an ecological survey report. The application site is not considered likely to provide suitable habitat for protected species. Nevertheless, a precautionary approach to any works on the site can be advised by informative further to Policy NC1 of the Local Plan.

The surface water drainage system discharges into the Clennon Valley and flows through the Clennon Wood County wildlife site. The development could result in oil and particulate pollution of the waterway. Therefore, use of the surface water sewer is not appropriate and is not proposed (see Drainage Section below). Run-off from the vehicle access currently occurs and would continue but would not significantly increase as the valet service would be near the entrance while car washing would be further into the site.

6. Flood Risk and Drainage

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 site is located within the Critical Drainage Area and Flood Zone 1. The surface water drainage system discharges into the Clennon Valley and flows through the Clennon Wood County wildlife site.

The application is accompanied by a Flood Risk Assessment, which proposes an attenuation tank with silt and oil filters on site and discharge into the Foul Public sewer (not the surface water sewer).

Torbay Council's Drainage Section has no objection to the development provided the proposed drainage system to the foul sewer is installed prior to first use. Given the nature of the proposal, the intended means of drainage (filter and attenuation and discharge into foul sewer) are considered acceptable having regard to the adopted Standing Advice. This could be secured by a condition on planning permission.

The proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1 (i) of the Paignton Neighbourhood Plan.

7. Sustainability and Low Carbon

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed use would support the use of cars as a mode of transport.

Policy ES1 seeks to ensure that carbon emissions associated with energy use from new developments are limited. It is not known whether the source of energy used on the site would be renewable.

Policy ER2 seeks that all developments reduce water being discharged into shared sewers and provide for efficient use of water including its reuse and recycling. The proposal includes oil and silt filtering within the drainage scheme and use of the combined sewer to prevent pollution of waterways. However, the proposed use would make intensive use of water and increase the run-off from the site.

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.

Local Finance Considerations

None.

Planning Balance

The proposal would, in principle be acceptable further to Policy SS4 in creating some temporary employment. However, the scheme is considered to be visually intrusive and result in adverse impacts on the street-scene on a prominent gateway to the Torbay area contrary to Policy DE1. The proposed use and vehicle access would

adversely impact highway safety and congestion at an extremely busy junction, contrary to Policy TA2. In addition, the LPA has been unable to assess whether the proposal would have adverse impacts on neighbour amenity in terms of noise nuisance, further to Policy DE3. Therefore, on balance, the proposal is not considered to be acceptable.

Conclusions and Reasons for Decision

The proposed development is considered unacceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Refusal for the following reasons:

Reasons:

1. Visual Impact

Due to the nature of the proposed use, materials and design and the prominent position of the site, the development would be immediately visible in the street-scene and from publicly accessible viewpoints. The welfare cabin, canopies and Perspex screen would adversely impact the street-scene and fail to enhance the appearance and character of the area. In addition, the proposal would not provide a focal point or an enhancement of this gateway between Torquay and Paignton. As such the proposal would result in unacceptable harm to the quality and visual amenities of the locality contrary to Policy DE1 of the Torbay Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained in the National Planning Policy Framework.

2. Neighbour Amenity

Due to the siting, scale, and design of the development it is considered that the proposal could result in an unacceptable noise nuisance to surrounding premises.

Insufficient information was submitted to enable a proper assessment of this impact. The proposal is, therefore, not considered to be in accordance with Policy DE3 of the Local Plan and guidance contained in the National Planning Policy Framework.

3. Highway Safety and Congestion

The proposal fails to make adequate provisions for safe vehicle access to the site. The proposal would adversely impact highway congestion and safety in the vicinity of the site. In addition, it fails to make improvements to the road network or safe Active Travel in the vicinity. Consequently, the proposed use and design are contrary to Policy TA2 of the Torbay Local Plan, Policy PNP22 of the Paignton Neighbourhood Plan and guidance contained in the National Planning Policy Framework.

Informatives

1. 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 with the applicant in a positive and proactive way by clearly setting out concerns relating to the proposal and providing an opportunity for the applicant to withdraw the application. However, the applicant elected not to withdraw the application, thereby resulting in this refusal of planning permission.

Relevant Policies

The proposed development has been tested against the following policies of the Development Plan and other relevant material considerations:

Torbay Local Plan

DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
ES1 - Energy
NC1 - Biodiversity and Geodiversity
SS3 - Presumption in favour of Sustainable Development
SS4 – The Economy and Employment
SS5 - Employment Space
TA2 - Development Access
TA3 - Parking Requirements

Paignton Neighbourhood Plan

PNP1- Area Wide
PNP1(c) – Design Principles
PNP22 – Western Corridor
PNP1(e) – Commercial Development
PNP1(i) – Surface water