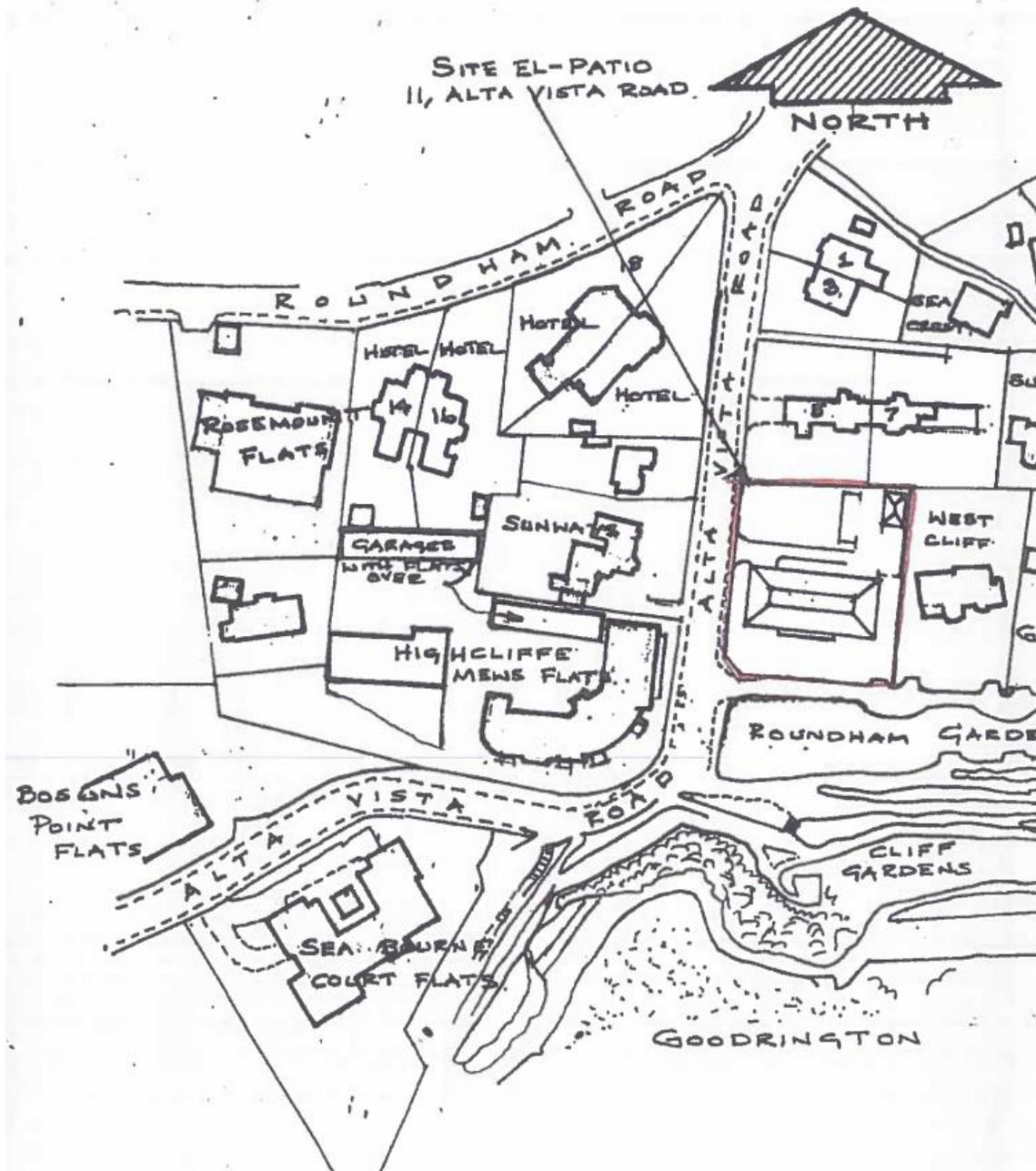


# **TORBAY COUNCIL**

Application Site Address	EI-Patio, 11 Alta Vista Road, Paignton
Proposal	Reserved Matters application on P/2019/0893. Matters to be discharged: (i) landscaping (to include hard and soft landscaping, and means of enclosure).
Application Number	P/2022/1090
Applicant	Mr and Mrs Roach
Agent	Howes Partnership Architects
Date Application Valid	10.10.2022
Decision Due date	09.01.2022
Extension of Time Date	20.01.2023
Recommendation	Approval
Reason for Referral to Planning Committee	The proposal relates to reserved matters of a major development.
Planning Case Officer	Jim Blackwell

## **Location Plan**



### **Site Details**

The site comprises a large two storey, detached residential dwelling with a render and tile hung elevations with a mixture of aluminium and uPVC fenestration. The site area is 1,910 square metres and the existing footprint of the dwelling is approximately 246 square metres excluding the outbuilding and detached garage. The site provides ample parking for the existing dwelling, the submitted information indicates nine off street parking spaces, as well as a swimming pool to the rear of the site. The site provides pedestrian access from both Alta Vista Road and Roundham Gardens and vehicular access from Roundham Gardens. The site lies to the eastern side of Alta Vista Road and the site levels are relatively flat. The site is adjacent to Roundham and Paignton

Harbour Conservation Area.

### **Detailed Proposals**

This is a Reserved Matters application relating to hard and soft landscaping and means of enclosure in relation to the previously approved ten residential flats as part of outline planning application P/2019/0893.

The proposed landscaping works include:

- Retained hedgerow on all sides of the site.
- Retention of the existing lawns to the south of the proposed units.
- Formation of ten parking spaces with blockwork surface to the north of the site.
- Gravel access road and turning head for parking area.
- Retention of existing tarmac access route to the south.
- New tree planting and retaining existing cherry trees.
- Proposed walls and railings to the north elevation of the proposed building.

### **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

- Torbay Local Plan ("The Local Plan")
- Paignton 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.

### **Summary Of Consultation Responses**

Paignton Neighbourhood Forum:

No comments received.

Green Infrastructure Manager:

The proposed landscaping is satisfactory. We will require standard conditions relating the replacement of plants that die within a 5 year timeframe.

### **Summary of Representations**

No comments received.

### **Relevant Planning History**

CN/2022/0118: Discharge of Conditions relating to application P/2019/0893. Conditions: 02 - RM landscaping, 07 - Biodiversity Enhancement, 08 - Bicycle Storage, 13 - Electric Charging Point, 14 - Boundary Treatment. Approved 02/12/2022.

P/2019/0893: Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved. Approved 15/07/2020

P/2002/1060: Erection of 4 Bedroom Residential Property. Refused 03/10/2002.

P/2001/1360: Redevelopment to Provide 10 Residential Apartments with Vehicular and Pedestrian Access (As Revised by Plans Received 4/2/02). Approved 11/04/2003.

P/2000/0738: Renewal of Application Reference No.95/0859/Pa for Erection of Garage. Approved 29/06/2000.

P/2000/0277: Redevelopment to Form 8 Self Contained Flats (In Outline). Approved 22/01/2001.

P/1990/0719: Conversion of Previously Approved Three Bedroom Apartment Ref App. No. 89.2853 To Form 2 Two Bedroom Flats (Total 8 Units). Approved 30/05/1990.

P/1989/2853: Conversion and Extension to Form Seven Apartments with Parking. Approved 03/04/1990.

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

Outline planning permission has been granted for the demolition of existing building and construction of ten residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved. Unusually therefore the only matter reserved to be considered within this application relates to landscaping.

Please note that in discharging planning conditions 02 and 07 as part of CN/2022/0118 the landscaping details and ecological enhancement measures have effectively already been agreed.

The principle of residential development of this site is established through the previous outline planning permission. The key issue relates to the landscaping (to include hard and soft landscaping and means of enclosure). For clarity, the ecological enhancement measures being proposed are also included below.

### **1. Landscaping and Trees**

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. The development proposed under this application would not cause significant harm to existing trees and hedgerows and represents only a minor revision from the layout approved by the reserved matters consent P/2018/0522.

Policy PNP1 (a) b) of the Paignton Neighbourhood Plan states that development should increase biodiversity and ecological networks and Policy NC1 of the Local Plan requires development to conserve and enhance Torbay's biodiversity through the protection and improvement of fauna and flora.

The site is in a visually prominent, highly elevated location, a corner plot where Alta Vista Road meets Roundham Gardens, evident from a large expanse of public vantage points. The boundary facing Roundham Gardens consists of a low stone rubble wall with

a variety of hedgerow types. The Alta Vista Road boundary consists of a low brick wall with a variety of largely overgrown hedges and trees. The internal north and east boundaries adjacent neighbouring properties comprise of hedgerow and mature trees. Within the site are a range of mature trees, shrubs and a lawn to the south facing Roundham Gardens.

The original outline planning application included objections and concerns around trees and wildlife. There have been no representations to this current Reserved Matters application. The original application was supported by an Ecological Impact Assessment which stated that the proposed demolition will not affect the conservation status of any local bat population. No signs of bats were associated with any element of the structures to be affected and no bats were recorded leaving the building during the emergence survey. The report also stated that the hedges and mature garden shrubs provided suitable breeding bird habitat, any necessary vegetation clearance would best be undertaken outside the bird breeding season and if this is not possible then works should be preceded by a breeding bird survey.

It should be noted that the site falls outside of the Roundham and Paignton Harbour Conservation Area and there are no protected trees onsite. The Council's Green Infrastructure Manager has been consulted on the application and considers the landscaping scheme satisfactory subject to a condition requiring replacement of any plants lost within five years. This condition forms part of the original outline application.

The proposed landscape plan indicates retention of the existing hedgerow and cherry trees to the north of the site, the retention of existing hedges to the east, south and west of the site. A new vehicular access to the west is the only area which would lead to a loss of the existing hedgerow. A number of new trees and plants are proposed which will ensure the development provides an increase in the range of species currently on site. The existing lawn would be retained to the south facing Roundham Gardens.

In terms of the streetscene, the proposed landscaping scheme would continue to largely screen the development from Alta Vista Road, whilst providing a soft edge to Roundham Gardens. The existing boundary walls of stone and brick would be retained and continue to reflect the traditional features of the area.

The proposed development is considered acceptable with regard to Policy C4 of the Local Plan.

## **2. Ecology and Biodiversity**

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

P/2019/0893 included a condition (number 07) which required the reserved matters to include details of measures to enhance biodiversity. A Biodiversity Statement was submitted in support of the original application. The plans include a suitable number and appropriately positioned bat and bird boxes as recommended.

The biodiversity enhancement measures are therefore in accordance with Policy NC1 of the Torbay Local Plan and the NPPF.

## **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**

S106:

Not applicable.

CIL:

Dealt with as part of the original outline application. The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. An informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

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.

HRA:

Not applicable.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

### **Conclusions and Reasons for Decision**

Overall, the number and range of trees, plants and shrubs would be increased on the site. The proposed landscaping scheme would continue to largely screen the development from Alta Vista Road, whilst providing a soft edge to Roundham Gardens. The existing boundary walls of stone and brick would be retained and continue to reflect the traditional features of the area.

The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

## **Conclusions**

The proposed landscaping (to include hard and soft landscaping and means of enclosure) is considered to be acceptable. As such, the proposal is considered to be in accordance with the Torbay Local Plan, and all other material considerations.

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

None required – refer to original approved application P/2019/0893.

## **Informative(s)**

01. Responsibilities of the applicant / developer:

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

02. 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

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

PNP1(c) – Design Principles

PNP1(d) – Residential Development