

# TORBAY COUNCIL

Application Site Address	Former St Kilda's Residential Home 15 Drew Street Brixham TQ5 9JU
Proposal	Listed Building Consent related to; Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa (P/2021/0531/MPA).
Application Number	P/2021/0532
Applicant	TDA
Agent	KTA Architects
Date Application Valid	07.10.2022
Decision Due date	02.12.2022
Extension of Time Date	31.03.2023
Recommendation	That Listed Building Consent is granted, subject to the conditions detailed below.  The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Divisional Director of Planning, Housing & Climate Emergency
Reason for Referral to Planning Committee	Linked to P/2021/0531; which is a Major Application and land owned by The Council.
Planning Case Officer	Scott Jones

## Location Plan



### **Site Details**

The site is located to the west of Drew Street close to the centre of Brixham. The town centre lies to the north of the site, and Brixham Hospital can be found within the site's immediate context.

The site consists of two vacant buildings which were formerly used as a retirement home. The first building, St. Kilda's, is a large two and three storey 1970's brown brick building with areas of cream render, green hung tiles and a brown tile roof. This building is sited to towards the rear of the plot. The second building, 15 Drew Street, is an early C19th 2-storey Grade 2 listed former house, with cream rendered walls and a slate roof. This building is sited at the front of the plot and addresses Drew Street. The site has one point of vehicular and pedestrian access on Drew Street.

To the east of the buildings the site is primarily hard landscaped, used for vehicular access and parking. Vegetation is principally low-quality scrub growth around the borders to the north and west of the buildings. Trees to the north and western fringes appear to have been removed within the last few years.

In terms of context the area is predominantly residential in character.

In terms of topography there is a gentle gradient from the entrance to the watercourse at the rear of the site. The northern fringe of the site adjacent to this watercourse is identified as having a high risk of flooding with the remainder of the site having a low risk of flooding.

In terms of heritage context as detailed the villa at the front of the site the villa is listed. In addition the adjacent buildings (No.s 17-19) are also listed. The front of the site and villa sit in the Higher Brixham Conservation Area, the rear building and most of the site sit outside the defined boundary though.

### **Description of Development**

Listed Building works linked to the proposal to demolish the large 2/3 storey modern building to the rear of the site and the modern link to the listed building and provide a new over 55s affordable housing development of 23 new flats to change the use of the listed building to a single dwelling.

The LBC proposals principally cover the demolition of the modern corridor link between the listed building, 15 Drew Street, and St Kilda's, the large 1970s care home set to its rear, and remedial works to the exposed elevation, including installation of an external timber door and surround.

### **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 Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 (BNP)

#### 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.
- Listed building

\*The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, 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.

#### **Pre-Application Enquiry**

DE/2020/0058: Construction of 23 1 and 2 bed apartments – General Support.

#### **Relevant Planning History**

P/2021/0531/MPA: Partial demolition of existing care home and development of 23 'later living' flats with associated parking; Change of use of retained villa to single dwelling (24 units total), and minor works to retained villa. Pending consideration.

#### **Summary of Representations**

3 submissions, 2 objections submitted on the 'host' MPA application. No issues raised pertaining to listed building issues.

#### **Summary of Consultation Responses to the listed building consent**

##### **Brixham Town Council:**

No comment on current scheme. Original scheme advertised and consulted on BTC offered no objection.

##### **Conservation Advice (internal – Torbay Council)**

The significance of the listed building has been somewhat compromised by previous development within its setting and by past insensitive extensions. The proposals to remove the rear 1970s link and to sensitively repair the listed building would have a positive impact on the existing character and appearance of the listed building and, if carried out appropriately, would contribute to the enhancement of its significance as a designated heritage asset.

The removal of the existing structures within its setting is to be encouraged, and whilst the replacement development is larger with regards to its scale and massing, it is located further away from the listed building which would gain a small defensible garden area to the rear.

Whereas it can be considered that the development, when viewed in isolation, would cause a degree of harm to the significance of the heritage asset due to its size and proximity to the

listed building, this level of harm can be outweighed by the heritage gains of the proposals and the benefit of replacing the existing structures in this location. To help achieve this, it is essential that the proposed development is constructed using high quality materials commensurate with their sensitive setting to mitigate its visual impact.

It is also considered that the proposals would allow the optimum viable use of the building to be achieved by reinstating it as a single dwelling.

### **Planning Officer Assessment**

#### **Impact on the Listed Building**

The 19<sup>th</sup> Century building at the front of the site (15 Drew Street) is a designated Grade II Listed Building and the development proposals seek listed building consent for direct works affecting this building.

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan and Policy BE1 of the BNP). These policies are aligned with the duties on local planning authorities as required by sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for decisions to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The titled balance requires an assessment of the NPPF policies that protect heritage assets. NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, 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 199). 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 200). 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 202).

A Heritage Impact Assessment (Avalon Planning & Heritage: 18-08-2022) has been submitted with the application, which assesses the current context and the impacts of the proposed development.

The listed building considerations are as follows.

The removal of the single storey link and making good the exposed elevation will be beneficial to the listed building and its setting and would positively influence the buildings contribution to the character and appearance of the Higher Brixham Conservation Area. The link is a modern unsympathetic structure, and its removal will improve the spatial arrangement within the setting of the listed building. The restoration of the original appearance of the lime washed stonework will improve the rear elevation of the listed building and overall presents a positive

aspect of the development. A timber door and surround will be installed within the exposed elevation, which is considered to present an acceptable form to the elevation and which is proposed in an acceptable material. Details should be secured by condition prior to installation.

It is considered that the proposals present enhancement to the listed building and thus accords with Local Plan Policies SS10 and HE1 and Policy BE1 of the Brixham Peninsula Neighbourhood Plan, and advice contained within the NPPF.

This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66) in terms of listed buildings and their settings.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

#### **The Social Role**

The principle social benefit of the listed building alterations is that they will facilitate a residential use of the building and facilitate the wider redevelopment and housing provision.

Given the NPPF priority to significantly boost the supply of housing, in particular affordable housing, the additional dwellings to be provided must carry significant weight in this balance.

#### **The Environmental role**

With respect to the environmental role of sustainable development the key element is the impacts on the heritage.

The proposed has a positive impact on the listed building and it's setting as outlined above. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

### **Sustainability Conclusion**

Having regard to the above assessment the proposed development is considered to represent sustainable development.

### **S106 / Local Finance Considerations**

**S106**

N/A.

## **Community Infrastructure Levy**

N/A.

## **EIA/HRA**

### **EIA**

Due to the scale, nature and location of the LBC element of this development it will not have significant effects on the environment and therefore is not considered to be EIA development.

### **HRA**

The LBC element of the scheme development is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects.

## **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 protect or enhance listed buildings produces a positive impact overall.

## **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.

## **Proactive Working**

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.

## **Conclusions and Reasons for Decision**

The works to the listed building are considered positive and will enhance its character and appearance whilst facilitating the good use of a redundant brownfield site and would provide much needed housing to help meet local need.

The proposed listed building works are considered acceptable, having regard to the Torbay Local Plan, the Brixham Peninsula Neighbourhood Plan, the NPPF, and all other material considerations.

## **Officer Recommendation**

Grant of Listed Building Consent: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

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

## **Conditions**

### **Demolition Method Statement**

The works to remove the existing link as shown within the plans hereby approved shall be carried out in accordance with the 'Method Statement for the removal of the 1970s link from the rear wall of St Kilda' received 01.09.2022. The works shall be carried out prior to the occupation of any part of the development and shall be permanently retained thereafter in accordance with the approved details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Brixham Neighbourhood Plan.

### **Schedule of Repair/Vegetation Removal – External (pre-commencement)**

No external works to the building, excluding demolition of the link in accordance with the approved 'Method Statement for the removal of the 1970s link from the rear wall of St Kilda', shall be carried out until a detailed schedule of any repair work and vegetation removal, including methods and materials, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the work shall be carried out only in accordance with the approved details and shall be completed prior to the occupation of any part of the development.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Brixham Neighbourhood Plan. This is a partial pre-commencement condition because the works have the potential to harm retained historic fabric and therefore these details need to be agreed before work commences.

### **Stonework – Making Good**

The new facing stonework to the listed building as shown within hereby approved shall match the existing stonework adjacent in respect of dimensions, colour, texture, face bond, pointing and finish. The works shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Brixham Neighbourhood Plan.

### **Door Joinery Details**

Notwithstanding the approved plans and details prior to the installation of new doors within 15 Drew Street, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new doors
- Reveal 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 safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Brixham Neighbourhood Plan.

### **External Cleaning**

No cleaning of masonry, other than low pressure (20-100 psi) surface cleaning using a nebulous water spray is authorised by this consent without the prior approval of the Local Planning Authority. Before cleaning work begins, any other cleaning proposals must be submitted and approved in writing by the Local Planning Authority and then carried out strictly in accordance with those details.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy BE1 of the Brixham Neighbourhood Plan.

### **Nesting season**

The demolition and any immediate associated removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

### **Informative(s)**

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 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.
2. 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.

### **Relevant Policies**

#### **Local Plan**

Policy SS10 Conservation and the Historic Environment

Policy HE1 Listed Buildings

Policy NC1 Biodiversity

#### **Brixham Peninsula Neighbourhood Plan**

Policy BE1 Heritage assets and their setting