

**Application Number**

P/2015/0052

**Site Address**

Fernicombe Windmill  
Adj To Windmill Cottage  
Windmill Lane  
Paignton  
TQ3 1AA

**Case Officer**

Mr Alexis Moran

**Ward**

Preston

**Description**

Conversion and change of use of the Fernicombe Windmill to a single residential unit, erection of new roof structure and single storey extension.

**Executive Summary/Key Outcomes**

The site relates to a windmill tower on Windmill Lane which is located between Dolphin Court Road and Longmead Road, Paignton. The structure is Grade II listed and is included in Historic England's Buildings at Risk Register.

The application seeks permission for the conversion and change of use of the windmill tower to a single residential unit with the erection of a new roof structure, based on the traditional form of cap found on West Country tower mills, and a single storey extension.

The key issue in relation to this application is the affect the proposal would have on the character and appearance of the listed building and the wider street scene the impact on the privacy and amenity of neighbouring residents.

The proposed cap to the building provides an authentic, traditional design solution, whilst also providing sufficient accommodation to make the proposal viable. The single storey extension is subservient to the main tower and would not materially affect its character. The use of the windmill for residential purposes provides a more certain future of the heritage asset, that is currently at risk, and the proposal is deemed to comply with policy BE6 of the saved adopted Torbay Local Plan 1995-2001 and paragraphs 131 & 132 of the NPPF.

There are no additional openings proposed in the tower, only the original window openings will be used. The new use will result in some, albeit limited, overlooking into the rear of homes and gardens on Longmead Road and Dolphin Court Road. However given the distances (15 metres or more) between the properties and the angles of sight available from the windows, it is considered on balance that the relationship is acceptable, particularly given that the openings are existing and that the future of the building will be retained as a result of the residential use.

### **Recommendation**

Conditional approval; suggested conditions are listed at the end of this report. Final drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

### **Statutory Determination Period**

31.03.2015

### **Site Details**

The site relates to a derelict windmill tower on Windmill Lane which is located between Dolphin Court Road and Longmead Road, Paignton. The windmill was originally built in the late 1700s and has been redundant since approximately 1860. The structure is Grade II listed and has been included in Historic England's Building's at Risk Register.

The windmill tower has an elevated position, given its former use, and is surrounded primarily by single storey dwellings, gardens and public amenity space.

### **Detailed Proposals**

The application seeks permission for the conversion and change of use of the windmill tower to a single residential unit with the erection of a new roof structure, based on the traditional form of cap found on West Country tower mills, and a single storey extension which includes solar panels. As the building is at risk this application constitutes a proposal to protect the long term future for the building with the primary intention of enhancing and preserving its heritage features.

### **Summary Of Consultation Responses**

Arboricultural Officer - The scheme is suitable for approval on arboricultural merit subject to the addition of a condition relating to the submission of a plan detailing tree protective fencing is submitted prior to commencement.

RSPB - No objection, the use of integral nest sites designed for swifts and suitable for bats and sparrows rather than the use of house sparrow terraces.

English Heritage - No comment on this application, please see the associated Listed Building application for comments.

Drainage Engineer - Further information relating to infiltration tests and soakaway design should be fitted prior to commencement of the development.

Senior Heritage and Design Officer - No objection.

Natural England - No objection, apply standing advice with regards to protected species.

Highways - No objection.

### **Summary Of Representations**

Twelve objectors to the proposal have been recorded, the objections related to the following issues:

- Inappropriate use of a Grade II Listed Building
- Potential to become a holiday home
- Should be used by the community and restored to its original state
- Overlooking
- Lack of parking
- Loss of light
- Too high in relation to its surroundings.

### **Relevant Planning History**

P/2015/0053 - Conversion and change of use of the Fernicombe Windmill to a single residential unit, erection of new roof structure and single storey extension - associated Listed Building application awaiting determination, recommendation for approval.

P/2013/0530 - Windmill Cottage, Windmill Lane, Paignton - Demolition of Windmill Cottage and formation of Two x Three bedroom dwellings with garages (Revised Plans received); application withdrawn.

ZP/2011/0533 - Alterations/extensions use for accommodation - officer advice was that an application would be likely to be looked upon favourably 18.06.2014

P/1992/1235 - Conversion of former Windmill tower to form a single dwelling unit (as revised by Plans Received 21st October 1992) - approved 28.10.1992

P/1992/1236LB - Conversion of former Windmill tower to form a single dwelling unit (as revised by plans received 21st October 1992) - approved 28.10.1992

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

The key issues in relation to this application are; a) its impact on the character and appearance of the listed building and the wider street scene, b) its impact on the privacy and amenity of neighbouring residents.

#### *Impact on the listed building and street scene appearance*

When assessing the impact of the proposed development on a the listed building policy BE6 (Development affecting listed buildings)of the saved adopted Torbay Local Plan 1995-2011 states that there are two principal factors to be taken into account -

1. Development should have special regard for the desirability of preserving any listed building and its setting

2. Planning proposals for the for the alteration or extension of any listed building will not be permitted if the character of the building would be adversely affected

Section 66 of the Listed Buildings Act requires LPAs to pay "special regard" to the desirability of preserving Listed Buildings.

The NPPF accords with s.66 in that:

- Paragraph 131 states that "in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness."
- Paragraph 132 advises that "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. The more important the asset, the greater the weight should be."

The windmill is on Torbay Council's at Risk Register and its long term future requires resolution. The proposal to convert it to residential accommodation provides a viable solution to ensure that the building is enhanced and preserved. The principle of the development is therefore considered to comply with the requirements of policy BE6 of the saved adopted Torbay Local Plan 1995-2011 and the relevant paragraphs of the NPPF as highlighted above.

The proposed roof cap provides an authentic solution to the windmill tower which is based on the traditional form of cap found on West Country tower mills and would be of a timber construction. The single storey extension would be subservient to the listed building and would not be significantly detrimental to its character. The extension helps ensure the proposed development is viable.

These additions are necessary in order to ensure that the heritage asset is preserved and the cap to the tower provides a design which would be in keeping with the original appearance of the working windmill whilst providing sufficient room for accommodation. The proposed extensions to the listed building are therefore deemed to comply with policy BE6 and paragraphs 131 & 132 of the NPPF.

At present due to the height of the structure it is visible from numerous viewing points in the location and with the addition of the cap to the tower it is likely to be more visible.

However it is considered that the additional timber cap adds to the authentic appearance of the listed building which is inevitably different in scale and nature from the residential properties which surround it.

*Impact on neighbour amenity*

There will be no new window openings in the existing structure although at least one will require unblocking. This provides four windows to the north elevation and four to the south which would result in the possibility of some overlooking into the rear windows of the properties on Dolphin Court Road and Longmead Road. However, due to the angles at which the two windows in the middle of the windmill tower are set at, they do not allow direct views into the rear of these properties.

The windows on what would have been the fourth storey (one on the north elevation and one on the south elevation) do have direct views into the rears of 59 and 61 Longmead Road and 64 and 66 Dolphin Court Road. However the rear elevations of the properties on Longmead Road are approximately 20 metres from the windmill. This distance is considered to be sufficiently far enough away so as to not have a significant impact on the amenity of the occupiers of these properties.

The rears of the properties on Dolphin Court Road are closer (some 15 metres) however this makes the angle of sight more acute. Bearing in mind that the windows are relatively narrow in comparison to modern openings, it is considered that the impact on the properties on Dolphin Court Road is, on balance acceptable.

Similarly a balance must be struck between the importance of retaining the heritage asset and the impact on the privacy of the occupiers in neighbouring properties. When considering that a residential use would appear to be the most viable way of ensuring the future of the Grade II listed building and the fact that the only openings on the tower are those which already exist, the impact on residential amenity is considered to be acceptable.

The properties to the south on Dolphin Court Road have rear boundary hedges and fencing which will act to minimise any overlooking from the single storey extension.

The glazed bridge between the tower and the single storey extension does allow for some overlooking into the rear gardens and elevations of the properties on Dolphin Court Road. However this is a link between the tower and the extension rather than a habitable space therefore it is deemed that it would have an acceptable impact on the living conditions of future occupiers.

A garage is proposed at ground level and this is situated in a location which is unlikely to harm the residential amenity of neighbouring occupiers.

The plans show that the boundaries of the site will be a mixture of wire fence, brick wall and wooden fence. Further details of a scheme for boundary treatment will be requested via a condition.

### **Ecology**

The report submitted by Kestrel Wildlife Consultants Ltd, titled "Bats, Birds and Reptile Survey Report June 2014" notes that birds nest in the tower and slow worms were found on the site. One bat was seen entering the tower but the report concluded that it would be unlikely to roost there. The report recommends mitigation measures which will be conditioned to ensure compliance.

### **Access and Parking**

The proposed dwelling is to be accessed via Windmill Lane which is a cul-de-sac that ends by the windmill tower. A garage is proposed on the ground floor/base of the tower with a tarmac area outside.

### **Section 106**

The use has off-site impacts, on school places, public transport and greenspaces for example, that would previously have been covered by a S106 Agreement.

However, as a result to changes in government guidance, the local planning authority no longer seeks 'pooled' contributions in respect of sites of 10 dwellings or fewer with a maximum combined gross floorspace of less than 1000m<sup>2</sup>. Contributions can still be taken where there is a specific scheme which would be directly affected the development. In this instance no specific schemes have been identified on which a planning contribution can be spent.

### **Conclusions**

By converting the tower into a residential dwelling it provides a viable use of the heritage asset and safeguards its future. The proposed cap on the tower provides an authentic form of development which would improve the aesthetics of the tower. The single storey ground floor extension is subservient to the tower and is considered to be an acceptable addition to the Grade II Listed Building. Bearing these points in mind it is concluded that the proposal would comply with policy BE6 of the saved adopted Torbay Local Plan 1995-2011 and paragraphs 131 & 132 of the NPPF. The impact on the privacy and amenity of neighbouring occupiers is considered to be acceptable given that the proposal will make use of the existing openings and revive what is a redundant heritage asset. The site is to be serviced via an existing access and a parking space is provided in the base of the mill. Having given consideration to these factors the proposed scheme to convert the redundant mill tower is considered to be appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

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

01. Prior to commencement a plan detailing tree protective fencing in accordance with B.S.5837:2012 Trees in relation to design, demolition and construction, shall be submitted to the Local Planning Authority for approval .

Reason: To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011 and BS5837.

02. No development shall take place until the following information has been submitted to and approved in writing by the Local Planning Authority:
- (1) Evidence that trial holes and infiltration tests have been carried out on the site to confirm whether the ground is suitable for a soakaway(s). Trial holes and infiltration tests must be carried out in accordance with Building Research Establishment Digest 365. In addition, evidence demonstrating that the use of a soakaway(s) at this location will not result in an increased risk of flooding to surrounding buildings, roads and land. This should take into consideration re-emergence of surface water onto surrounding properties after it has soaked away. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are suitable for a soakaway(s) and will not result in an increased risk of flooding to surrounding buildings, roads and land:
  - (2) Detailed design of the soakaway(s) in accordance with Building Research Establishment Digest 365, including how it has been sized and designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change.
  - (3) Details of the surface water drainage system connecting the new building to the soakaway(s), which must be designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. In the event that the evidence submitted under (1) above demonstrates that the ground conditions are not suitable for a soakaway(s) or will result in an increased risk of flooding to surrounding buildings, roads and land:
  - (4) Evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. No dwelling shall be occupied until the approved surface water drainage system has been completed as approved and the approved surface water drainage system shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policy EPS of the Adopted Torbay Local Plan 1995-2011 and paragraph 103 of the NPPF.

03. The vehicle turning area shown on the approved plan shall be provided before the use of the development hereby approved commences and retained as such thereafter.

Reason: To ensure the site has suitable access and egress, in accordance with Policy T25 of the Torbay Local Plan 1995-2011.

04. The recommendations and proposals set out in the 'Bats, Birds and Reptile Survey Report' undertaken by 'Kestrel Wildlife Consultants Ltd' dated June 2014 submitted with this application, shall be implemented in full prior to any development taking place. Additionally the proposal should incorporate at least four permanent internal nesting cavity or nest bricks designed for swifts in place of the proposed sparrow terrace.

Reason: To protect the wildlife on the site in accordance with Policy NCS of the Saved Adopted Torbay Local Plan 1995-2011.

05. Prior to the commencement of development, details of all boundary treatments shall be submitted to the Local Planning Authority for approval. The boundary treatment shall be constructed in accordance with the approved drawings prior to the occupation of any of the dwellings.

Reason: In the interests of the amenities of the area, and to accord with policies BES, BE1 & BE6 of the saved adopted Torbay Local plan (1995 - 2011).

**Relevant Policies**

BES - Built environment strategy

BE1 - Design of new development

NCS - Nature conservation strategy

BE6 - Development affecting listed buildings

T25 - Car parking in new development

H9 - Layout, and design and community aspects