

Application Number

P/2011/0552

Site Address

The Pines
78 St Marychurch Road
Torquay
Devon
TQ1 3HG

Case Officer

Mr John Burton

Ward

St Marychurch

Description

Demolition of building and construction of a new block of 13 flats (In Outline)

Executive Summary/Key Outcomes

This application seeks approval in outline for the demolition of the existing building and its replacement with a block of 13 two-bed flats.

Recommendation

Negotiations have led to considerable improvements in the overall proposal, and the key issues and material considerations are considered to be heading towards a recommendation of approval. However, the advice from the Highways Officer is still required, issues surrounding the protection of trees during and after development still need to be resolved and Members have been asked to undertake a site visit to assess the impact of the proposal for themselves. As well as all these matters, the applicant will need to deliver a planning obligation under S106 of the Act as referenced above.

Site Details

Comprises a detached Victorian Villa in mature landscaped grounds currently in use as a care home. It is located on the western side of St. Marychurch Road, a busy traffic route, just down from the junction with Forest Road and with Studley Road to the rear. It is thus bounded on three sides by other residential properties. It contains several trees that are protected by a Tree Preservation Order (TPO no. 2002.21 - St. Marychurch Road, Torquay).

Detailed Proposals

The proposal as originally submitted was an outline scheme for the demolition of the existing building and its replacement with a block of 13 two-bed flats. Although a detailed feasibility study was submitted with the application, all matters were to be reserved for future consideration. Since the original application was lodged, officers have suggested during negotiations that the height, footprint and position of the building on site should be fixed so that there could be some understanding of impact upon the street scene, the protected trees and upon neighbouring properties. The Architect has agreed to accept this. Therefore much of that shown in the feasibility study would be fixed if this application were to be approved. As such the proposed building would have a slightly smaller and re-orientated footprint from the existing structure on site, and would be no higher than the existing building. However, there would be a much greater bulk of building at the upper levels.

Summary Of Consultation Responses

The Highways Officer has been asked for his views and they will be reported to Members at their meeting.

The Council's Arboricultural Officer considers that it is fundamental that prior to any permission being granted detailed work is undertaken and agreed by the tree section to inform how the present building

is to be demolished, the new one built, RPA areas protected, and service runs installed without negatively affecting the trees. The Council's Arboricultural Officer is clear that no recommendation for approval can be made until this work is submitted.

South West Water has commented that they have no objection in terms of capacity within their infrastructure to serve the proposed development, but have requested that soakaways should be the preferred solution.

RSPB have asked if the proposal could include the provision of in built nest boxes for swifts. This would be in line with the council's requirement to consider and further biodiversity. This innovative approach to biodiversity has been used by other local authorities in South Devon and it is currently being investigated by Officers. Further views will be reported to Members. The comments of the RSPB have been reproduced with the other representations.

Summary Of Representations

Many letters of objection have been received, the main concerns are:-

1. The nature and use of St. Marychurch Road and a lack of pedestrian footways;
2. Insufficient car parking provision;
3. Size and height of proposal leading to overlooking of surrounding existing properties and consequent loss of privacy;
4. Over-development;
5. Risk to wildlife;
6. Loss of the Victorian style villa would affect character of Torquay;
7. It would de-value surrounding properties;
8. Why not renovate and convert rather than demolish?;

One letter has been written in general support of the proposal by an existing neighbour, but does ask for careful management of the existing trees and bushes. The agent has also written to counter many of the above arguments and this letter as with all the others has been reproduced and is available in the Members' Room.

Relevant Planning History

- P/1985/0996 Use part as tea rooms, approved 29.05.1985
- P/2005/0892/OA Demolition of 3 storey building and erection of 33 apartments with ancillary accommodation for retired people with pedestrian access (in outline), refused 25.07.2005
- P/2006/0779 Erection of 14 residential apartments, refused 02.08.2006
- P/2006/1217 Erection of 11 residential apartments and 2 houses with vehicular/pedestrian access (revised scheme), application withdrawn without determination.

Planning Policy -

The relevant planning policy at national and local level is as follows.

PPS1 "Delivering Sustainable Development"

PPG3 "Housing"

Torbay Local Plan 1995-2011 -

- HS Housing strategy
- H2 New housing on unidentified sites
- H6 Affordable housing on unidentified sites
- H9 Layout, design and community aspects
- H10 Housing densities
- H11 Open space requirements for new housing
- CF6 Community Infrastructure contributions
- CF7 Educational contributions

L8	Protection of trees, hedgerows, woodlands and other natural features
L9	Planting and retention of trees
BES	Built Environment Strategy
BE1	Designing new development
BE2	Landscaping and design
TS	Land use transportation strategy
T1	Development accessibility
T2	Transport hierarchy
T25	Car parking in new development
T26	Access

Key Issues/Material Considerations

The main material considerations are considered under the following key headings:

Principle

The current building on the site is a good example of a villa, at the edge of a part of Torquay originally developed at low density with similar properties. The building is showing some signs of decay and neglect, and has suffered from the addition of various flat roofed extensions over the years. However, the basic design ethos of the original villa remains relatively unspoilt. The area as a whole has suffered from modern infill and redevelopment that has diluted the original character and grain of the area. There is therefore now a fairly eclectic mix of types, sizes and styles of residential dwellings in the area. The property is not a Listed Building and is not situated within a Conservation Area. It would therefore not be possible justify retention of the building, despite its character.

Density

With a total site area of approximately 0.25 hectare, 13 units would provide a density equivalent to 52 dwellings per hectare. Whilst this is at the upper end of acceptability, Government policy is trying to get Local Planning Authorities to consider regeneration positively and to ensure better use of 'brownfield ' sites, particularly where situated within the framework of the existing built environment. Visually from the principal public viewing positions along St. Marychurch Road, the bulk of building would appear greater at the upper levels, but the block would retain a relatively generous plot and would still be well screened by existing and proposed tree and shrub planting. As such it is considered that it would be difficult to argue that the site would be overdeveloped. Therefore, so long as the other issues of acknowledged importance are all acceptable, then it is not considered that the proposal could justifiably be considered to overdevelop the site.

Design

The footprint of the building, its position on site and its height are matters that are to be determined by this proposal. As the proposed building would have a slightly smaller footprint from the existing structure on site, would be re-orientated to sit better within the site and within the street scene and would be no higher than the existing building, it is difficult to argue that these considerations would be unacceptable.

However, there would be a much greater bulk of building at the upper levels, and this would lead to a much more dominant and imposing structure than currently is the case. The acceptability of this is best judged on site, and Members are requested to undertake a site visit to assess this element of the proposal for themselves. There is no doubt that the general perception of the building would be largely determined by its appearance, and it is considered that the design shown with the feasibility study has not yet achieved an acceptable replacement for the existing structure. Nevertheless, design and appearance are issues that would be considered at the Reserved Matters stage and so should not sway opinions at this stage. A suggested design of the building has been submitted to show that the scheme would be possible, and it is not necessarily intended to reflect the finished appearance.

Inter-visibility, overlooking and residential impact

This is difficult to assess at this stage because it is clear that detailed design and appearance are matters that will be considered at the Reserved Matters stage. The pertinent question has to be therefore whether the proposal would move the bulk of building any closer to existing surrounding properties, and whether the increase in use as a result of extra units would impose upon the privacy and amenity of the neighbouring uses. In general terms, Officers are of the opinion that with a careful design and the judicious use of landscaping, these issues could be made to work. However, it is suggested that Members undertake a site visit to assess these issues for themselves.

Access/Parking/Highway safety

The proposal utilises an existing access onto St. Marychurch Road and provides for parking on a 1:1 ratio. However, parking and access issues are of particular concern to local residents, as can be seen from the representations received. The main concerns are the point of access onto the busy St. Marychurch Road, the impact this would have on highway safety and the potential for greater levels of on-street car parking.

The Highways Officer has been asked for his views and they will be reported to Members at their meeting.

Trees and landscaping

The site is covered by a Tree Preservation Order (2002.21) and this largely dictates that the existing trees on site will have to remain.

The Council's Arboricultural Officer has considered the submitted proposals and has some concerns that the physical proximity of existing trees to properties and windows on the southern elevation could lead to future pressure to either inappropriately prune or fell the trees by any new residents. This may stem from a desire for greater levels of direct or indirect light or felt perceived psychological concerns about the proximity of trees and the risk they may pose. The applicant's arboricultural advisor has noted that the bank of trees (with the exception of T0874) has the potential to be managed by pollarding or crown reductions, which would address these concerns. Study of the trees supports this viewpoint and if an ordinary tree work application was submitted outside of any planning proposal a level of tree works would likely be permitted. This would reflect good arboricultural practise and would have the result of creating a positive relationship with any new possible occupiers of units on this side of the building with regard to trees 869 to 873.

The Council's Arboricultural Officer is also concerned about the potential for damage to rooting environments either during or post construction.

The parking area to the east of the present building is composed of heavily compacted chippings which would sustain a level of loading during any permitted build. However it is likely that loads no greater than delivery van/ transit van sized have been placed upon this surface throughout its life. This fact leads to a high potential for damage to rooting zones if heavy plant were to be used during the demolition and construction of the property. Whilst the phasing suggested deals with a sequence of work, what is not detailed in any form is how the work would be undertaken to demolish the building and construct the new without incurring root zone damage. This is fundamental for any arboricultural support for this application.

Given the high amenity value of the trees it is fundamental that prior to any permission being granted on arboricultural merit that detailed work is undertaken and agreed by the tree section to inform how the present building is to be demolished, the new one built, RPA areas protected, and service runs installed all without negatively affecting the trees. The Council's Arboricultural Officer is clear that no recommendation for approval can be made until this work is submitted. The Agent has asked if this matter can be dealt with by condition, and as this is an outline application, there could be some merit in this suggestion, as the Reserved Matters would have to be dealt with in full before any permission

legally existed capable of implementation. Further negotiations are in hand on this issue.

Planning obligation under s106 of the Town and Country Planning Act

Consideration should be given to the need for a planning obligation under s106 of the Town and Country Planning Act to offset the costs that would arise from this proposal. The Council has now re-examined and re-interpreted its original Adopted Supplementary Planning Document LDD6 ('Planning Contributions and Affordable housing: Priorities and Delivery'). The 'Planning contributions and affordable housing supplementary document, update 3', was adopted by the Council in March of this year (2011). Both the original document and the current update form part of the Torbay Local Development Framework. The amount of the required 'developer contribution' for the current application should therefore be evaluated in line with this adopted revision to the policy. According to this document, contributions due for residential proposals are now based on floorspace to be created. The document splits contributions up into 5 categories according to size. The exact size of the units could alter as the Reserved Matters are submitted. However as it is currently submitted the 13 units would appear to fit into the second category, as they range between the parameters of 55 – 74 Sq. M.

Municipal waste and recycling	£ 50
Sustainable transportation	£1720
Stronger communities	£ 130
Lifelong learning	£ 220
Green space and recreation	£1120
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TOTAL	£3240
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This gives a total contribution due of (£3240 x 13 units = £42,120)

Vibrant Town Centres -

The proposed re-development will inevitably have an impact upon the facilities and services of the Plainmoor local centre. Whilst 13 extra units would create additional pressure for such services and facilities, it would also provide the opportunity for increased usage which could lead to better economic viability and possible improvement of services being offered. In general terms, the proposal is seen as being good for the local centre which would benefit from any increase in usage.

Sustainability - The proposal makes better use of the land and could therefore be argued to be more sustainable than the existing use on the site. This is a brownfield site within the existing built urban environment and is therefore more sustainable than a green field site. The proposal maximises use of the site.

Crime and Disorder - Not expected to be an issue, but either the developer or any future occupier will have to ensure proper security for each flat and the site in general. .

Disability Issues - The site is on the level and there is not considered to be an overriding objection under Part M of the Building Regulations. The upper floors as flats will not be covered by the Bldg. Regs.

Conclusions

Negotiations have lead to considerable improvements in the overall proposal, and the key issues and material considerations are considered to be heading towards a recommendation of approval. However, the advice from the Highways Officer is still required, issues surrounding the protection of trees during and after development still need to be resolved and Members have been asked to undertake a site visit to assess the impact of the proposal for themselves. As well as all these matters, the applicant will need to deliver a planning obligation under s106 of the Act as referenced

above, as such any positive recommendation would be subject to the resolution of the s106 agreement before the 28 September, in order that the application could be determined within the relevant time period.

Condition(s)/Reason(s)

01. The proposed development shall be carried out only in accordance with detailed plans which shall previously have been submitted to and approved by the Local Planning Authority. These drawings shall show the siting, design and external appearance of all proposed buildings, the datum level at which they are to be constructed in relation to an agreed fixed point or O.S. datum, details of the colour, type and texture of all external materials, including hard-surfaced areas, the means of access from any public highway, intended areas for vehicle parking, landscaping of the site and all other works, including means of enclosure.

Reason: To ensure that adequate information is available about the detailed nature of the proposals, and to ensure that the proposal accords with policies H10, L10, BES, BE1, BE3, T26 and T27 of the Torbay Local Plan (1995 – 2011), adopted April 2004, and the Environmental guide which forms Supplementary Planning Guidance to the Plan.

02. The development hereby approved shall not be used or occupied until all of the garages and/or car parking areas and access thereto shown on the approved plans have been provided and made available for use, or to a stage previously agreed in writing with the Local Planning Authority. The car parking areas shall be kept permanently available for parking purposes to serve the development at all times thereafter.

Reason: To ensure that adequate off-street parking and access thereto is provided and kept permanently available for use, in accordance with policy T25 and T26 of the Torbay Local Plan (1995 – 2011) as adopted in April 2004, in the interests of highway safety, and in order to protect the residential amenities of the neighbourhood.

03. Prior to the commencement of any development, details of a sustainable urban drainage system shall be submitted to and approved by the Local Planning Authority, such system as may be approved shall be installed prior to the occupation of the development. The system shall be maintained effective at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to reduce surface water run off in a catchment area where flooding occurs and to accord with the requirement of PPS25 "Development and Flood Risk" in respect of sustainable drainage, and policy EP11 of the Saved Adopted Torbay Local Plan (1995 – 2011).

Informative

A Sustainable Drainage Solution such as a soakaway should be designed and constructed in accordance with Building Research Establishment Digest 365. A Sustainable Urban Drainage System should be designed and constructed in accordance with Construction Industry Research and Information Association Document 522 for surface water disposal (Clean surface water and roof water should be kept separate from foul drainage systems).

04. The development hereby approved shall not commence until sections and elevations to a scale of not less than 1:20, indicating the following details, have been submitted to and approved by the Local Planning Authority:

- (i) eaves overhang;

- (ii) rain water goods;
- (iii) reveals to window/door openings;
- (iv) slating/tiling;
- (vii) glazing bars.

The building shall not be occupied until it has been completed in accordance with these details.

Reason: To ensure that the architectural detailing of the development is completed to a satisfactory standard.

05. Works to trees to be retained.

- (i) Any work carried out to trees to be retained on site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.
- (ii) The development hereby approved shall not commence, and no materials shall be brought onto site, until all the trees to be retained on site are protected by fencing as per BS 5837: 1991. This will either be chestnut pale fencing or a scaffold structure 2.4 metres high supported durable man-made sheeting (either plywood or OSB of an exterior grade). Chestnut pale fencing will be to BS 1722: Part 4: 1989, as a minimum standard. This will consist of 1.200 mm pales, wired together as per standard, supported on three line wires, secured to fencing posts to a minimum standard of: 1800 mm long, 7 mm (3") top, driven 500 mm into the ground. In addition, straining posts, 1800 mm long by 100 mm (4") top, strutted where a change of direction occurs, will be installed at all ends and corners, at changes of direction, or acute changes of level, and at intervals no exceeding 50 m in straight lengths of fence. The fence will be installed upright, with all posts firmly bedded in the ground and line wires tensioned, and shall be maintained in such a condition throughout the duration of the development.
- (iii) The fence shall be installed no closer to the trunk of the retained tree than the edge of the drip line of the canopy or a distance equivalent to half the height of the tree, whichever is the greater.
- (iv) The area beneath the tree and between the trunk of the tree and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees shall be allowed onto the fenced area.
- (v) No trenches for service runs, or any other excavations shall take place within the fenced area.
- (vi) No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree roots.

Reason: To ensure that all existing trees on the site are adequately protected while development is in progress, and to accord with policies H10, L10, BE1 and BE3 of the Torbay Local plan (1995 – 2011), adopted April 2004.

06. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and

species, unless the local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area, and to accord with policies H10, L10, BE1 and BE3 of the Torbay Local plan (1995 – 2011), adopted April 2004.

Relevant Policies

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