

**Application Number**

P/2016/1265

**Site Address**Cary Castle  
32 Cary Castle Drive  
Torquay  
Devon  
TQ1 4QZ**Case Officer**

Verity Clark

**Ward**

St Marychurch

**Description**

Restoration of Cary Castle, alterations and improvements to associated flats, including reduction in number of flats from 14 to 9, removal of partitions from Cary Castle, formation of new car parking for flats, and replacement of windows and doors (Revised plans received 5/7/17 reducing size of parking area to 4 spaces)

**Executive Summary/Key Outcomes**

The application site is a Grade II listed building currently in use as a dwelling house and 14 residential flats, accessed from a private drive; Cary Castle Drive, Torquay.

The proposal seeks permission for a number of external works to the existing building in the form of new windows and doors, roof lanterns and the blocking up and opening of sections of wall.

The second key element of the proposal is the re-use of an existing vehicular access from Barewell Close to a newly formed parking area for 4 vehicles, with associated areas of hardstanding. The proposal also seeks permission for a number of new gates, and fences within the site.

The proposed works to the building are considered to be visually acceptable and without detriment to the historic fabric and character of the Grade II listed building or Conservation Area.

The proposed parking area to the South East of the plot is considered to provide additional parking facilities within the site without detriment to the setting of the listed building, highways safety, neighbour amenity, trees and ecology.

The application is recommended for conditional approval.

The application has been referred to Development Management Committee due to the number of objections that have been received.

## **Recommendation**

Conditional approval subject the final drafting of conditions to be delegated to the Executive Head of Business Services.

## **Statutory Determination Period**

8 weeks. The determination date is the 11th April 2017. The determination has exceeded the 8 week date to allow the applicant the opportunity to provide revised plans to address concerns with the proposal.

## **Site Details**

The site, Cary Castle, 32 Cary Castle Drive, Torquay, is a Grade II listed property in use as a dwelling house and 14 residential flats, accessed from a private drive; Cary Castle Drive, Torquay. The property is located within a generous plot and includes an existing parking area to the north of the property accessed from Cary Castle Drive. An existing overgrown and currently unused access is also located in the South East corner of the plot leading to Barewell Close.

The site is located within the St Marychurch Conservation Area.

## **Detailed Proposals**

The proposal consists of two key elements. The first includes works to the existing property. The proposal seeks permission for the blocking up and opening of sections of wall, new windows and doors and three timber roof lanterns. Internal works to the building are proposed as is the reduction of flats from 14 to 9, however these elements do not require the benefit of planning permission.

The second element of the proposal seeks to re-use an existing overgrown vehicular access from Barewell Close to provide access to a newly formed parking area for 4 vehicles, with associated areas of hardstanding. The proposed parking area is situated in the South East corner of the plot and sits adjacent to the properties; Tintern, Cary Castle Drive and 10 Barewell Close. The proposal also seeks permission for a number of new gates and fences within the site. As originally submitted the proposal was to provide parking for 14 vehicles, but this has been revised to 4 parking spaces due to concern about highway safety.

## **Summary Of Consultation Responses**

*Senior Historic Environment Officer:* It is clear from AC Archaeology's Architectural Assessment that the main block of the castle (west side) is, in the main, original fabric of the mid-19C; and that the east-side service wing is with the exception of short lengths of phase II walling (late-19C) entirely rebuilt in the 20C in two phases: 1950-1970; and c.1995-2000. The more recent plans show clearly the proposed demolitions in the new layout, allowed them to be separately phased, and thus aided interpretation considerably. Both the architectural assessment and the demolition details demonstrate that the great majority of the proposed changes are the removal of the less significant 20C phases. This was confirmed during our visit. After receipt of revised plans there are no concerns with the changes in the

main block or the 20C wing - though detail here: stair, window, and door formations and types will be important. No problems with drawings 1211.17 & 18; much of the demolition has been done as we witnessed, but mostly 20C alterations of low significance as agreed on site. Regarding the latest parking/landscaping proposals revised plans have been received reducing the number of parking spaces to 4. This sits within the context of the ruined buildings in the far corner; these once served the commercial walled gardens, the area now occupied by 3-9 and 12-18 Barewell Close, as the blocked entrance in the boundary wall with 12 Barewell Close shows. The revised plans are considered to be acceptable and without detriment to the setting of the listed building.

*Highways:* No objection to the revised plans detailing 4 parking spaces. Proposal is not considered to impact on highway safety due to the number of trips associated with 4 spaces.

*Arboricultural Officer:* The method of slight scraping and levelling to produce a gravel driveway with terram (using a non-toothed digger bucket) that does not dig into the top soil retained by pinned boards would be adequate. The Senior Historic Environment Officer was agreeable to this finish during our site meeting. All elements of the tree report dealing with tree protection excluding the no dig driveway solution should be conditioned for adherence if approval follows. If T2 is proposed to be removed the applicant should address this either by submission of a detailed landscaping plan or submit a normal tree work application to which a replacement tree condition will be attached.

*Drainage:* As the increase in impermeable area is less than 20m<sup>2</sup> there is no objection on drainage grounds.

*Wales and West Utilities:* There are pipes in the area which may be affected and at risk during construction works. Should the application be approved the promoter of the works should contact us directly to discuss our requirements before any works commence on site.

*South West Water:* No objection.

### **Summary Of Representations**

9 representations. Issues raised:

- Parking within Barewell Close
- Highway safety
- Noise and disturbance
- Existing access and parking on site
- Inaccurate plans/ description
- Loss of privacy and overlooking
- Impact on security
- Lighting

- Impact on listed building
- Impact on Conservation Area
- Neighbour amenity
- Right of access

### **Relevant Planning History**

- P/2016/1304 Restoration of Cary Castle, alterations and improvements to associated flats, including reduction in number of flats from 14 to 9, removal of partitions from Cary Castle, formation of new car parking for flats, and replacement of windows and doors. Concurrent listed building application.
- P/2002/1153 & P/2002/1154 Demolition Of Garage And Demolition Of Extension To Existing Villa; Conversion Of Villa To Form 2 Dwellings; Erection Of Extension To Form 2 Dwellings And Erection Of One Dwelling In Grounds. Applications withdrawn.
- P/1999/1202 Change Of Use From Holiday Apartments To Residential Apartments (As Revised By Plans Received 23/9/99). Approved 23/11/99
- P/1999/0319 Erection Of Dwelling With Garage. Refused 05/05/99 Appeal dismissed.
- P/1999/0318 Demolition Of Derelict Garage And Greenhouse And Erection Of Dwelling With Garage. Refused 05/05/99 Appeal allowed.
- P/1998/0142 Erection Of Dwelling With Integral Garage. Refused 23/03/98
- P/1988/0099 Erection Of Dwelling With Integral Garage. Refused 09/03/98

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

The key issues to consider in relation to this application are:

1. Impact on the listed building and Conservation Area
2. Impact upon the amenity of neighbouring properties
3. Transport Issues
4. Trees and Ecology

#### **1. Impact on the listed building and Conservation Area**

The proposed external works to the Grade II listed property are considered to be acceptable. The proposal seeks permission for the blocking up and opening of sections of wall, installation of new windows and doors at ground floor level and three timber roof lanterns. The Council's Senior Historic Environment Officer has confirmed that there is no concern with the changes in the main block or the 20th

century wing although larger scale detail of the window and door formations and types will be important and should therefore be required by condition. As such the proposed changes to the existing building are considered to be appropriate and without detriment to the historic fabric and character of the building or the character and appearance of the wider Conservation Area street scene.

The second element of the proposal seeks to re-use an existing overgrown vehicular access from Barewell Close to a newly formed parking area for 4 vehicles, with associated areas of hardstanding in addition to a number of new gates and fences within the site. As revised plans have reduced the number of parking spaces from 14 spaces to 4 spaces the Council's Senior Historic Environment Officer has confirmed that as the proposed parking will be located in the context of the ruined buildings in the far South East corner; which once served the commercial walled gardens, and as the proposed parking area is set a considerable distance from the listed building, this element of the proposal is not considered to impact on the setting of the listed building or Conservation Area. The proposed gates and fences are considered to be acceptable within the context of the site.

The proposal as a whole is therefore considered to accord with Policies DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

## 2. Amenity impact

In terms of impact on the neighbouring properties, Tintern, Cary Castle Drive and 10 and 12 Barewell Close are considered to be most impacted by the proposed parking area. As the proposal has reduced the number of parking spaces from 14 to 4 spaces any potential impact from the proposal has been reduced. The proposal will seek to re-use an existing access which could be cleared and utilised without the benefit of planning permission. Consent is required for the hardstanding, gates and fences associated with the re-used access. Although the parking area is situated adjacent to the garden areas of Tintern and 10 Barewell Close the reduction in spaces to enable only 4 cars to be parked at any one time is considered to result in an acceptable level of noise and vehicular movements for the context of the location. The siting of the proposed parking area is not directly in line with any neighbouring property's dwelling and as such light from car headlights is unlikely to face directly into any windows. The parking area is surrounded by a boundary wall and a hedge. Due to the scale of the proposal and the existing screening, the proposed parking area is not considered to be harmful to neighbour amenity. It is considered necessary to add a condition requiring the retention of the screening surrounding the parking area to ensure neighbour amenity is retained.

The proposed parking area is therefore considered to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

### 3. Transport issues

The Council's Highway's Engineer raised an objection to the initial proposal of 14 spaces due to the number of trips generated from the parking spaces and the additional vehicular movements onto Barewell Close.

Following the objection from the Highways Engineer revised plans reducing the number of spaces have been submitted. The Officer has confirmed that the existing access has no visibility problems or gradient issues, the same as the other driveways next to it. If it was opened again it would prevent parking within the turning circle, and it does not reduce the existing on street parking provision. Whilst there is congestion on Barewell Close at school times it is just for two short periods of time each day. As this congestion is generally caused by parents dropping off and collecting children from the school there would be no reason to object on highways grounds to a small number of additional residential trips. It is not considered that there is any additional danger to highway users, with the number of additional trips, now that the number of spaces has been amended to just four, reducing the likelihood of conflict between vehicles entering and exiting the driveway. It should also be noted that the proposed access will be used at various times of the day and not specifically at school times, as would be the case for all properties within the Close.

The proposal is therefore considered to accord with Policies TA2, TA3 and Appendix F of the Torbay Local Plan 2012-2030 which seeks to ensure an adequate level of accessibility and safety, and parking size standards.

### 4. Trees and Ecology

The Council's Arboricultural Officer has advised that the scheme is suitable for approval on arboricultural merit subject to the conditioning of all elements of the tree report dealing with tree protection excluding the no dig driveway solution. If T2 is proposed to be removed the applicant should address this either by submission of a detailed landscaping plan or a normal tree work application to which a replacement tree condition will be attached.

The application has been accompanied by a preliminary ecological appraisal. The written assessment concluded that:

- 1) Precautionary mitigation could be adopted in relation to external lighting associated with the parking area to avoid any negative impact on the local bat population.
- 2) It is likely that occasional common bird species nest within shrubs and trees at the site boundary. If any of these habitats are to be cleared, re-aligned or disturbed during the bird nesting season (March to August inclusive), the habitat should be thoroughly inspected by a suitably qualified person prior to the disturbance. If nesting birds are found, all activities likely to damage the immediate area should be delayed until chicks have fledged.
- 3) There is potential for reptiles to be present within the area of cut scrub. It is

- recommended that reasonable avoidance measures are adopted to displace any reptiles, if present, into adjacent retained habitat.
- 4) No further ecological surveys are required.

In terms of its impact on protected species, the proposal is therefore acceptable subject to the addition of a condition requiring the adherence to the recommendations for mitigation and further surveys set out within the preliminary ecological appraisal.

### **Statement of Pro-active Working**

The Council has sought to work positively and proactively with the applicant through discussions and through open dialogue including requests for revised plans.

### **S106/CIL -**

The development is not CIL liable.

### **Local Finance Considerations**

The local finance impact of the proposal is di minimus due to its scale.

### **Human Rights and Equality 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.

### **Conclusions**

It is considered that the proposal is acceptable for the reasons set out in this report. The external works to the Grade II listed building and the proposed formation of a parking area with 4 spaces, proposed fences and gates are considered to be acceptable and without detriment to the historic fabric and character of the listed building, the character of the Conservation Area, neighbour amenity and highways safety in accordance with Policies DE1, DE3, SS10, HE1, TA2, TA3, NC1, ER1, ER2 and Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which specifies that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which notes that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

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

01. Retention of boundary screening to parking area
02. Tree report/methodology
03. Ecology recommendations
04. Window/ door details
05. Restrict number of spaces for proposed carpark

**Relevant Policies**

- DE1 - Design
- DE3 - Development Amenity
- SS10 - Conservation and Historic Environment
- HE1 - Listed Buildings
- TA2 - Development access
- TA3 - Parking requirements
- NC1LFS - Biodiversity and Geodiversity
- ER1 - Flood Risk
- ER2 - Water Management