

PLANNING APPLICATION REPORT

Case Officer: Charlotte Howrihane

Parish: Totnes **Ward:** Totnes

Application No: 2707/21/HHO

Agent:

Mr Martin Cox
59 Barcombe Heights
Preston
Paignton
TQ3 1PU

Applicant:

Ms Greta Jensen
Pleases Passage
Star House
High Street, Totnes
TQ9 5QN

Site Address: Star House, Pleases Passage, High Street, Totnes, TQ9 5QN

Development: Householder application for alteration and extension to provide improved access to roof terrace and replacement of roof material (resubmission of 1924/20/HHO)



Reason item is at Committee: The Local Ward Members have called the application to Committee due to the complexities of the site and the planning history.

Recommendation: Refusal

Reasons for refusal:

The neighbouring building (Hopwood & Swallow) benefits from an extant permission to convert the building to residential accommodation. The proposed development would result in an unacceptable

impact on the outlook and privacy of this building, due to the proximity of the roof terrace to the habitable rooms of the proposed dwelling. The development therefore conflicts with policy DEV1 of the Plymouth & South West Joint Local Plan (2014- 2034), paragraph 132 of the National Planning Policy Framework (2021), paragraphs 13.17, 13.20, 13.22, 13.23, 13.26, and 13.27 of the Joint Local Plan Supplementary Planning Document (2020)

Key issues for consideration:

Principle of development, design, heritage, landscape impact, neighbour amenity

1. Site Description:

- 1.1. The site is set back from Totnes High Street, and accessed on foot from the High Street via Pleases Passage. There is also a rear access to the site from North Street. The property is a two-storey terraced property includes a single-storey flat roof extension.
- 1.2. The site is within the Totnes Conservation Area and is grade II listed. There are grade I and II* listed buildings in close proximity to the site, on the High Street, and Totnes Castle, and Scheduled Ancient Monument, is 50m to the west of the site.

2. The Proposal:

- 2.1. The proposed development is a first-floor extension to the property. The extension would be of a flat-roof design, extending out from the roof, just above the existing eaves, onto the existing flat roof area. The walls would be zinc sheeting, with a powder-coated aluminium door accessing the flat roof.
- 2.2. The development description given by the applicant is *'Householder application for alteration and extension to provide improved access to roof terrace and replacement of roof material'*. The roof terrace referred to in the development description refers to the existing flat roof. Although the applicant states that she has been informally using this flat roof as amenity space for a number of years, it is a flat roof with no balustrading, no decking/flooring, and in planning terms, is a flat roof, and not a terrace. There is no history of a planning application for a roof terrace in this location, and although Officers advised, prior to submission, that a lawful development certificate could be applied for to regularise the use of the flat roof as an external amenity space, no such application has been submitted to date.
- 2.3. The existing floor plans describe the space as 'flat roof', whilst the proposed plans indicate 'roof terrace'. For these reasons, Officers consider it necessary to consider the planning merits of the roof terrace referred to in the development description, and indicated on the plans, as part of the application, as in planning terms, this terrace would be a new development, regardless of how it may have been used informally in the past.
- 2.4. As part of the creation of this terrace, planters are proposed as a means of screening to the north and south of the flat roof.

Consultations:

- County Highways Authority- no highways implications
- Historic England- no comments to make

- Town Council- support

Representations:

Two letters of support have been received. These letters can be seen in full on the Council website, but can be summarised as follows:

- Other neighbours have roof terraces and overlook one another
- Proposed would enhance the view of neighbours
- Additional greenery would encourage wildlife
- Roof terrace needs to be accessible
- Current means of escape is inadequate
- Materials are in keeping with the site and Conservation Area
- Confident that applicant would carry out the works sensitively

One letter of objection has been received. The letter can be seen in full on the Council website but can be summarised as follows:

- Applicant currently uses flat roof as an amenity area without planning permission
- Using the flat roof as a terrace adversely impacts upon the living conditions of the adjoining building
- Proposal is the same character as the previous application which was not supported by Officers
- Objector's property has an extant permission for conversion to residential use and this is a material consideration
- Proposed extension is larger than a dormer
- Extension is unrelated to the grain and pattern of development in the Conservation Area
- Incongruous feature to the property which competes with the traditional townscape
- Roof plan show the position of the extension incorrectly, it would be closer to their building than is shown
- Flat roof does not reinforce local distinctiveness
- Proposal would have a harmful impact on the setting of the adjacent listed building
- Previous conditions regarding the existing rooflight were clear that the development had to be flush with the roof, contrary to pattern of proposed development
- Roof terrace would look directly into principal bedrooms of ground floor and first floor
- Noise and disturbance to the property from the roof terrace
- Neighbours property would be completely hemmed in by development
- Claim that the extension is needed to provide safe emergency access is spurious as they already use the rooflight to access the flat roof
- Means of escape would have been considered when the building was originally converted
- No consultation with the neighbours
- Other roof terraces and green spaces referenced and within the vicinity of the site (apart from Butterwalk House) have not been granted planning permission and are breaches
- Supporting photos submitted by the applicant are distorted and misleading
- Design & Access Statement references screening, but no screening is included in the application

Relevant Planning History

- 2708/21/LBC- Listed building consent for alteration and extension to provide improved access to roof terrace and replacement roof material (resubmission of 1925/20/LBC)- conditional approval
- 1924/20/HHO- Householder application for alteration and extension, formation of roof terrace to provide amenity area. Replacement of roof material- withdrawn

- 1925/20/HHO- Listed building consent for alteration and extension, formation of roof terrace to provide amenity area. Replacement of roof material- withdrawn
- 56/1178/99/F- Reconstruction and raising of roof to lean-to and new window to west elevation- conditional approval
- 56/0476/98/4- Change of use to single residential unit- conditional approval

ANALYSIS

3. Principle of Development/Sustainability:

- 3.1. The site is an existing residential dwelling with the town centre. The principle of alterations and extension within the curtilage of a residential property is therefore acceptable, subject to all other material planning considerations.

4. Design:

- 4.1. The proposed extension is a small-scale addition to the property. As a flat-roof structure, it would read as a subservient addition to the main dwelling, and despite being at first-floor level, the extension is of a small-scale and proportional to the main roofspace. As such, the development is not considered to attempt to compete with the host dwelling.
- 4.2. The walls would be clad in zinc, and although this is a more contemporary material, the tone of the extension would be similar to the existing property, and this would provide a distinction between the new elements of the property, and the more historic part of the building.
- 4.3. As such, the proposed development is considered to be of an acceptable design, and accords with policy DEV20 of the JLP.

5. Landscape & Heritage:

- 5.1. An objection has been received, stating that the extension is not in keeping with the pattern of development of the Conservation Area, and is incongruous and not in keeping with the site and locality. Although the site is within the historic core of the town, and the general form of the former burgage plots behind the High Street can still be identified, there has been a clear evolution of this area, with various modern additions visible to the buildings, such as the existing flat-roof extension to Star House, lean-tos, dormers, rooflights. Given the small-scale nature of the development proposed, the relatively obscured position of the extension, and the proposed materials, the extension is considered to be acceptable in terms of landscape impact.
- 5.2. The Council's Heritage Specialist has visited the site, and is currently determining the listed building consent which accompanies this planning application. He is satisfied that the proposal would not harm the setting of the Conservation Area, or the special architectural or historic qualities of the listed buildings, for the following reasons (quotes from LBC report 2708/21/LBC):

'In this instance the proposed works are deemed to offer a neutral intervention and the detailed elements of the scheme are considered to be both sensitive and appropriate for the building and as such accord with both local and national conservation plan policies.

When viewed as a whole the rear ranges (including Star House and beyond) of 51 Fore Street follow a similar vein to the typical historic pattern of development within the town in that the rear ranges run perpendicular to the High Street and the principal buildings that front it and parallel to the historic burgage plots in which they sit.

Officers are content that by virtue of the relatively small scale nature of the development proposals and the siting of the 'dormer access' on a lower secondary modern roof the legibility of the 'historic' roof form cascading down through rear ranges will not be adversely impinged upon and the materials as proposed will render an offering that sits most quietly in both immediate and wider context. Nor will it diminish an understanding of the natural hierarchy of the rear ranges when viewed in the context of the principal listed building and its associated historic ancillary outbuildings thus securing the preservation of its setting.

Officers are content that the proposed new 'dormer access' extension will not erode or impinge on the special interest of the listed building, nor that of those which sit in close vicinity. Nor will it appear as an incongruous structure within the Conservation Area but rather sit quietly and harmoniously when viewed in both an immediate and wider context.

Officers welcome the proposed replacement of the man-made fibre-cement roof slates with a natural slate on the main roof which will deliver an enhancement to not only the immediate listed building but also the wider Conservation Area.'

- 5.3. Subsequently, the proposal is considered to preserve the setting of the Conservation Area, and would not harm the listed building or the setting of nearby heritage assets. Historic England had no comments to make on the proposal, and the application is considered acceptable with regard to policy DEV21 of the JLP, and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6. Neighbour Amenity:

- 6.1. The extension itself is of a scale and position that it is not considered to impact on the amenity of neighbouring properties with regard to overlooking, daylight, or privacy. However, as previously detailed, the development also includes the creation of a roof terrace on the existing flat roof, which would be accessed from the proposed extension.
- 6.2. Although the applicant states that the flat roof has been used informally for a number of years, there is no history of a planning application ever being submitted for this terrace, and it has not been regularised through the lawful development certificate process. No operation development (flooring, balustrading, screening, etc) has been carried out to create a terrace area, although upon visiting the site, there were some plants on the flat roof.
- 6.3. As it is referenced in the development description, and shown on the proposed plans, the creation of a roof terrace on the existing flat roof is considered to be part of the proposed development and as such, the impact of this terrace on the amenity of neighbours must also be considered in the assessment of the application.
- 6.4. The closest property to the roof terrace is Hopwood Swallow, to the immediate south of the site. Although it is currently an office building, it benefits from two extant planning permissions for conversion to residential use (56/0831/03/F for change of use and conversion to two flats, and 2970/20/FUL for change of use and conversion to a single dwelling). As both of these permissions are extant, and can still be implemented, the impact of the terrace on the future residential use of the Hopwood Swallow building is a material planning consideration.
- 6.5. The proposed roof plan shows the roof garden with planters, which are described as screening to the roof terrace. This planting screen is shown as being approximately 1.6m in height, but with substantial gaps between the plants shown. Although the planting is clearly just indicative, it demonstrates the lack of solidity and ineffectiveness of proposing

planting as a means of screening. Officers are also mindful that planters are temporary, moveable items, which do not constitute development in themselves. It is therefore considered that a condition requiring their placement and retention would not be enforceable in the same way that a privacy screen, fence, etc, could be. Even if planting is accepted and conditioned, there is no guarantee that the plants would thrive and become so established that they would provide enough of a screen between the terrace and the neighbour.

6.6. Due to the compact nature of the building layout in this part of the town, there is a passageway, of a width of approximately 1.3m between Star House and the north elevation of the Hopwood Swallow building. Although the extent of the roof terrace, demarcated by the planter 'screening' is set back from the edge of the flat roof, it would still only be approximately 4m from the windows of the neighbouring building. The plans approved for both conversions to residential use show these windows are serving habitable rooms, and the only outlook from this property/these flats would be these windows, facing north towards the flat roof of Star House.

6.7. The Supplementary Planning Document (SPD) to the JLP notes that *The LPAs have a responsibility to protect the existing amenities of all residents. Any alteration or extension should not have an unacceptable effect on the standard of living offered to occupants of homes that are to be extended and their neighbouring properties.*' (para 13.17). It goes on to provide more guidance specifically related to roof gardens:

'(13.22) Balconies and roof gardens can be unacceptable in higher density areas because of the impact they can have on the privacy of neighbours' gardens or habitable rooms. In assessing a proposal for a balcony or roof garden the degree of overlooking will be considered.

(13.23.) As well as overlooking, balconies can also create generate additional amenity impacts if they are positioned close to the site boundary such as noise. Consideration should be given to the location of any proposed balcony to prevent amenity impact to neighbouring properties.

(13.24.) Alternative designs, such as setting back the balcony/roof garden in rear extensions to reduce overlooking or a privacy screen will be considered on a case by case basis'

6.8. The proposed roof terrace would be in such close proximity to the north elevation of the Hopwood Swallow building, that it is considered to have a harmful impact on the amenity of future occupants of this building. An external amenity space less than five metres from a bedroom/living room window would clearly result in unacceptable levels of overlooking between the two, as well as potential noise disturbance to these habitable rooms.

6.9. Whilst the SPD notes that screening can sometimes be used to overcome overlooking, it also warns that screening *'should be of a scale that does not unreasonably affect the outlook or daylight of the neighbouring property.'* (para 13.26). Due to the extremely small distance between the sites, Officers consider that any installation of a height and solidity that provides sufficient screening between the two is likely to be overbearing and harmful to the outlook of the occupants of the Hopwood Swallow building. Screening would also not resolve the potential noise disturbance, and would therefore not be appropriate in this instance to address the concerns of neighbour amenity.

6.10. Other neighbours have written in support of the proposed terrace, stating that the additional greenery would be welcomed, and that other neighbours have terraces and all overlook each other. Notwithstanding comments from the objector that most of the nearby terraces are unauthorised and have not been granted planning permission (this is a matter

which they could report as a planning breach if they wished and is not a consideration of this proposal), Officers would note that these neighbours would experience mutual overlooking between external amenity spaces, across a greater separation distance. There is a significant difference in the impact on these neighbours, than the Hopwood Swallow building, where occupants of the terrace would be looking directly into bedrooms or habitable living space at close proximity.

- 6.11. The proposal is therefore considered to have a harmful impact on the outlook and privacy of the Hopwood Swallow building, and that this would conflict with policy DEV1 of the JLP, and associated paragraphs of the SPD.

7. Highways/Access:

- 7.1. No changes to the existing highways arrangements.

8. Other matters:

- 8.1. The applicant has claimed in the Design & Access Statement that the extension and access on to the roof terrace is required to provide safe egress from the dwelling in the event of an emergency. When visiting the site, Officers were able to access the flat roof via the existing rooflight with relative ease. This is therefore not considered to be a justification in itself for the development.
- 8.2. The suggestion from the applicant and neighbour that the proposal would lead to more planting and wildlife on the flat roof is noted. However, putting plants or more greenery on the roof is not in itself development, and is not dependent on the granting of planning permission for the proposed works. There are already some plant pots on the roof, and there is nothing to stop the applicant adding more plants to encourage wildlife if she chooses to.

9. Summary:

- 9.1. Whilst the design and scale of the proposed extension is considered to be acceptable, the inclusion of the roof terrace within the development would result in harm to the residential amenity of the building to the south. This harm could not be mitigated by screening due to the proximity of the flat roof to the adjacent windows, and the proposal therefore conflicts with policy DEV1 of the JLP. It is therefore recommended for refusal.

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Planning Policy

Relevant policy framework

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the Plymouth & South West Devon Joint Local Plan 2014 - 2034 is now part of the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park).

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development
SPT2 Sustainable linked neighbourhoods and sustainable rural communities
DEV1 Protecting health and amenity
DEV2 Air, water, soil, noise, land and light
DEV10 Delivering high quality housing
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV35 Managing flood risk and Water Quality Impacts

Neighbourhood Plan

The site is within the Totnes neighbourhood plan area. This plan is at Regulation 16 stage, but is likely to go back to Regulation 15 stage due to proposed amendments to the plan. The neighbourhood plan can therefore be given limited weight in the decision-making process. However, the relevant policies have been considered and the development is not considered to conflict with these policies:

Policy En2: Development and Design

Other material considerations include the policies of the National Planning Policy Framework (NPPF) and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application:

Plymouth & South West Devon JLP Supplementary Planning Document (2020)
Totnes Conservation Area Appraisal

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.